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SELF-GOVERNMENT

IN

RURAL BENGAL

**Handbook containing the Bengal Village Self-
Government Act, 1919 and other Laws and
Rules in force in local areas to which
that Act is extended, with
Notes.**

BY

A DISTRICT OFFICER.



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PREFACE.

As soon as the Village Self-Government Act, 1919, comes into force in a district, members of union boards and the district board and officers who have duties in connection with such boards feel the want of a compilation in convenient form of the various Acts and rules by which the proceedings of union boards are regulated. The first volume of this book was written in order to meet that want. Recently also there has been a great development of activity in several branches of the work of district boards, many rules have been amended and new rules made, and the Local Self-Government Act itself has been amended. To meet the need that has consequently arisen for a complete and up-to-date manual, this book has been extended to a second volume containing the Local Self-Government Act as amended and other Acts with which district boards are concerned. Rules and orders made by the Government are quoted in notes under the sections to which they relate and, where cross-references seem likely to be useful they also are given in the notes. There are many points on which statutory rules have not yet been made. Pending the making of rules, such points will have to be determined locally according to the discretion of district officers and local self-governing bodies. Suggestions on those points also are made in the notes. These suggestions are in no way authoritative; but the author ventures to think that they may be found useful, as they are based on long association with union committees and panchayats.

In the districts in which he has served, the author has found that he can always be assured of the co-operation and support of members of the panchayats and union committees and he counts many of his best

friends among them. At this dawn of a new era in self-governing institutions he offers this book as an effort to help them in forthcoming developments and as a tribute of appreciation of their self-sacrificing public spirit.

Acknowledgments are respectfully tendered for much assistance derived from Collier's Local Self-Government Handbook and Caspersz ' annotated edition of the Penal Code. The author also expresses his thanks for help received from Mr. S. N. Roy, I.C.S., who has corrected the proof-sheets, from Babu Sachi Kanta Ghosh, a circle officer, who has contributed practical suggestions and from Babu Anukul Chandra Mallick, Head Assistant, Municipal Department of the Bengal Secretariat, who has furnished references to rules and orders.

CALCUTTA,

The 1st June, 1920.

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TABLE OF CONTENTS.

		PAGES.
1.	Contents of the V. S. G. Act ...	i
2.	Introduction ...	2
3.	The Bengal Village Self-Government Act, 1919 ...	1
4.	The Village Chaukidari Act, as amended in areas to which the Bengal Village Self-Government Act is extended ...	96
5.	Duties of Village Headmen ...	102
	(i) Section 45 Criminal Procedure Code.	
	(iii) Criminal Tribes Act.	
6.	The Bengal Primary Education Act, 1919	111
7.	The Cattle Trespass Act, 1871 ...	118e
8.	The Bengal Ferries Act, 1885 ...	139
9.	Offences triable by a Union Bench ...	169
	(i) Under the Indian Penal Code.	
	(ii) Under the Police Act, 1861.	
10.	Rules under the Village Self-Government Act ...	182
	(i) Election Rules.	
	(ii) Rules regarding meetings of union boards.	



BENGAL ACT No. V OF 1919.
The Bengal Village Self-Government
Act, 1919.

CONTENTS.

PART I.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title, local extent and commencement.
2. Repeal and amendment of certain enactments saving of certain provisions.
3. Effect on certain enactments when Act is withdrawn.
4. * Definitions.

CHAPTER II.

UNION BOARDS.

5. Power of Local Government to declare local areas to be unions.
6. Establishment and constitution of union board.
7. Qualifications of voters and members of union board.

SECTION.

8. President of union board.
9. Vice-president of union board.
10. Disqualification of certain persons from voting at election of, or being members of, union boards.
11. Term of office of members.
12. Power to remove members.
13. Filling of casual vacancies.
14. Term of office of president or vice-president.
15. Resignation of president, vice-president or member.
16. Removal of president or vice-president.
17. Filling of casual vacancy in office of president or vice-president.
18. Incorporation of union boards.
19. Works constructed by a union board to vest in the board.

CHAPTER III.**DAFADARS AND CHAUKIDARS.**

20. Appointment and dismissal of dafadars and chaukidars.
21. Numbers and salaries of dafadars and chaukidars.
22. Power to fine dafadars and chaukidars.
23. Powers and duties of dafadars and chaukidars.
24. Procedure on arrest by dafadar or chaukidar.
25. Fines to be credited to district chaukidari reward fund.

CHAPTER IV.**POWERS AND DUTIES OF UNION BOARDS.****SECTION.**

26. Duties of union boards.
27. Powers of union board as to sanitation, conservancy and drainage.
28. Power of union board as to cleansing of unions.
29. Power of union board to control erection of buildings, etc.
30. Power of union board to provide for proper water-supply.
31. Powers of union board as to roads, bridges and water-ways.
32. Establishment of primary schools and dispensaries.
33. Transfer of certain duties from the district or local board to a union board.
34. Prohibition of certain offensive or dangerous trades without license.
35. Power of entry.
36. Appointment of establishment for union board.

CHAPTER V.**UNION FUND.**

37. Imposition of union rate.
38. Nature of assessment.
39. Procedure of assessment and revision thereof by the union board.
40. Power of district magistrate to revise assessment.

SECTION.

41. Arrear to be recovered by distraint and sale of movable property of defaulter.
42. What property may be distrained and sold for arrears.
43. Distraint and sale of property beyond limits of the union.
44. Irregularities not to avoid distraint.
45. Grants-in-aid from district fund.
46. Union fund.

CHAPTER VI.

GENERAL PROVISIONS RELATING TO UNION BOARDS.

Delegation.

47. Delegation of district magistrate's powers and duties.

Disputes.

48. Disputes between union boards.
49. Disputes between a municipal authority and union board.

Control.

50. Local board to superintend the administration of union boards.
51. Supervision of union boards by commissioners and other officers.
52. Inspection of union board record.
53. Inspection of work or property of union board.
54. Special provision in case of non-payment of chaukidars and staff.

SECTION.

- 55. Power to provide for performance of duties under section 27 or 30 in case of default by a union board.
- 56. Power to remove the president or supersede a union board.
- 57. Consequences of supersession.
- 58. Power to suspend action of union board.
- 59. Order of magistrate or district board under section 58 to be reported to the commissioner.

Miscellaneous.

- 60. Penalty on member, officer or servant being interested in a contract made with a union board.
- 61. Power to make compensation for damage.
- 62. Liability of members.
- 63. Bar to suits.
- 64. No suit to be brought until after one month's notice of cause of action.

PART II.

CHAPTER VII.

UNION BENCHES AND UNION COURTS

Union Benches.

- 65. Constitution of union bench.
- 66. Jurisdiction of union bench.
- 67. How case may be instituted.
- 68. Power of bench to dismiss or to refuse to entertain petition.

SECTION.

- 69. Dismissal of case for default.
- 70. Proceedings preliminary to trial.
- 71. Bar to appeal from or revision of the order of union bench ; but power to order retrial.
- 72. Power of union bench to impose fine or to award compensation.

Union courts.

- 73. Constitution of union court.
- 74. Jurisdiction of union court.
- 75. Certain suits not to be tried by union court.
- 76. Local limits of jurisdiction of union court.
- 77. How suit may be instituted.
- 78. Action to be taken if suit not triable by a union court.
- 79. Dismissal of suit for default.
- 80. Summons to defendant to appear and answer.
- 81. Postponement on application for transfer.
- 82. *Ex parte* decision.
- 83. No order to be set aside without notice to opposite party.
- 84. Power of union court to determine necessary parties.
- 85. Certain suits not to be tried by union court.
- 86. Decision of union court.
- 87. Instalments.
- 88. Decision of union court to be final ; but power to order retrial.
- 89. Death of parties.
- 90. Fees.
- 91. Execution of decree.

SECTION.

92. Sums realized in part satisfaction of demand to be distributed rateably.

General provisions relating to union benches and union courts.'

93. Procedure by union benches and union courts.
 94. Persons who are to preside over union bench or union court.
 95. Member of union bench or court not to try case or suit in which he is interested.
 96. Attendance of witnesses.
 97. Appearance of parties before union bench or union court.
 98. Appearance of women.
 99. Realization of fess, fines, etc.
 100. Registers and records.

PART III.

CHAPTER VIII.

MISCELLANEOUS.

101. Power of Local Government to make rules.
 102. Members of union board, etc., not to bid for or buy property sold.
 103. Membership not a bar to trial of cases.
 Schedule I.—Enactments repealed or amended.
 Schedule II.—Offences to be reported by a chaukidar.
 Schedule III.—Powers and duties which may be delegated by the district magistrate.
 Schedule IV.—Offences triable by a union bench.

INTRODUCTION.

CHAPTER I. .

SELF-GOVERNMENT IN BENGAL VILLAGES.

(Local Self-Government is no novelty in Bengal, for the genealogy of its village institutions is buried in the obscurity of ancient history,) and even the next modern conception of a system by which the people may administer their own affairs is over 30 years old. The main principles of Part I of the Bengal Village Self-Government Act, 1919 were presented to the public in 1883, and the embryo of Part II is clearly visible in official papers of 1894. As these facts are not generally realised, the brief recital given in the following paragraphs will perhaps be found interesting and serve as a useful introduction to this manual.

2. The Chaukidari Act of 1870 contemplated* that the villagers would have their say as to the persons whom they would recommend as members of the panchayat. It was recognised that if the panchayat were appointed on the nomination of police officers it would not follow that the persons appointed would be acceptable to the people or that they would be the men possessing influence with the villagers. In 1883 a committee appointed by the Lieutenant-Governor to report on the working of the Act stated† that in practice this provision of the law had not been carried out and that, for want of any other agency, the police were extensively employed in nominating and practically selecting the panchayat. The mistake also had been made of paying too much attention to educational acquirements and well-to-do, influential, but illiterate rayats had been passed over in favour of men who had really little influence in the village, but who were of good caste and could read and write. Mr. Westmacott, District Magistrate

* Cf. section 3 of the Act and the speech of Mr. Alouza Murry in P. C. Procs. ; 1870.

† Cf. paras. 30-32 of the report of Mr. Monro Committee, dated 27-3-83.

of Dacca, who was a member of the committee, specially dwelt on this point and urged that the real leaders of village society should be made members of the panchayat and that it was wrong and unnecessary to appoint persons without influence merely because they could read and write. The opinion expressed by Mr. Westmacott and the other members of the committee have been followed in the Village Self-Government Act which provides that at least two-thirds of the members of a union board shall be elected by the villagers and that no literary qualification shall be required for membership of a union board.

3. Although his views were not accepted by the other members of the committee of 1883, Mr. Westmacott recommended that the collection of the rate and the payment of chaukidars should continue to be part of the duties of the panchayat. He adhered to the opinion expressed by Sir Ashly Eden in 1878 that any amendment of the law must be in the direction of increasing the dignity, authority and power of the village panchayat and he suggested various means by which the unwillingness of the right type of men to become members of panchayats might be overcome. Mr. Westmacott's suggestions included (1) absolute prevention of interference with the panchayat by the thana police (2) increasing the percentage on collections to an amount greater than the poultry 6 per cent. which was all that the law then allowed to cover cost of collection (3) permitting the duties of collection to be delegated by the panchayat to some person other than a member of the panchayat and (4) authorising the Magistrate to assist the panchayat in proceeding against defaulters.

4. Mr. Westmacott thought that the adoption of these proposals would relieve service on a panchayat from much of the odium attached to it. He pointed out that when the panchayat were left to collect the tax and pay the chaukidars in a slovenly and slipshod manner on the principle of noninterference by the magistrate contemplated in the Act, their work had not been distasteful and membership had not been unpopular; but when magistrates insisted on the punctual payment of chaukidars, membership at once became odious. The causes for this change of feeling were not merely the inherent dislike of punctuality—with little trouble they might have been trained to businesslike habits—but other

factors operated which affected them still more strongly. Members of panchayats were treated as subordinates by the thana police, and their position became still more degraded when their accounts were called for and inspected by the police. The members avoided the unpopularity resulting from compulsory measures to levy money from neighbours with whom they were on friendly terms. They also felt that to go about soliciting money from persons of inferior social position was undignified as well as irksome and, lastly, they felt that it was unjust that their private property should be attached if the chaukidars' pay fell into arrears.

5. The first of Mr. Westmacott's proposals has already been carried into effect to some extent by executive orders and statutory rules under the Chaukidari Act and the whole spirit of the Village Self-Government Act conforms to his recommendation. The statutory rules by which tahsil members of panchayats were required to attend at the police station to pay their Chaukidars have already been so far modified that the payment is made not in the presence of the thana officer, but of some other officer of higher rank. Even that provision will probably not be found in the rules under the Village Self-Government Act. The Act itself gives the thana police no authority whatever over the union board.

6. In proposing to increase the allowance to 25 per cent. Mr. Westmacott's object was to provide the panchayat with means to pay an officer to collect the rate. His proposal was adopted in 1892 so far as to allow the panchayat to retain 10 per cent. for collection expenses* and in the Village Self-Government Act full effect is given to Mr. Westmacott's suggestion by allowing the union rate to be collected by an officer of the union board in addition to other duties that may be assigned to him and by providing for the assessment of an amount 10 per cent. in excess of the sum required to pay the establishment, including the officers as well as the Chaukidars of the union board. In this way both the second and the third of Mr. Westmacott's proposals have received legal sanction.

7. In the Village Self-Government Act Mr. Westmacott's fourth suggestion has also been developed into practical form. Section 43 authorises the Magistrate on the application of the union board, to issue a distress warrant against an absentee defaulter. If the law allowed the Magistrate to issue processes in the case of ordinary arrears within the union, as Mr. Westmacott perhaps intended, it would come dangerously near to infringing the principle of leaving the community to settle its own affairs. The union board's responsibility for the realisation of the rate within the union must be maintained. It is, however, not beyond the bounds of probability that the Magistrates intervention may be necessary for the very purpose of preventing a breakdown of the system of self-government. In a village where factious feeling runs high, the party defeated at the elections for the union board may organize passive resistance and a general refusal to pay the union rate. To meet "passive resistance" with a wholesale issue of distress warrants by the union board might possibly create such serious friction as would endanger the public peace. If a union board finds that it is unable to realize funds sufficient to pay its chaukidars and other establishment, it may move the District Magistrate to appoint an officer under section 54 to realize arrears of union rate by distraint or any other means which the union board itself is authorised to use. Probably a threat to invoke the intervention of the Magistrate in this way would be sufficient to make the malcontents yield.

8. In fulfilment of Sir Ashley Eden's desire that the dignity, authority and power of the village panchayat should be increased, the Village Self-Government Act gives to the union board increased power in regard to the appointment and punishment of chaukidars. The union board is to nominate chaukidars and their nomination is to be accepted unless good reason exists for not doing so (section 20) ; the opinion of the union board is to be ascertained and considered in determining the number of chaukidars to be employed and their pay (sec. 21) and the union board is empowered to fine chaukidars up to a quarter of a month's pay (sec. 22). Hitherto the thana officer could in practice secure the rejection of recommendations made by the panchayat and when there was friction between the thana officer and the panchayat, the

police officer usually prevailed. But an efficient thana officer supports his panchayats and maintains a friendly understanding with them. He realises that their co-operation with him is essential to the checking of crime and the maintenance of law and order. The increased powers given to the union board by the Village Self-Government Act will tend still more to make the thana officer treat the president and members of the board as gentlemen occupying an independent position, of a status differing from but fully equal to his own ; for while his post is stipendiary, they occupy honorary positions to which they have been elected by the people whom the serve.

9. Under the Chaukidari Act the liability for the payment of the village police was transferred from the zamindars (whose connection with the chaukidars was absolutely dissolved) to the village community, and panchayats were established in every village or union of villages and were made responsible for the assessment of the villagers and the collection of the rate. The panchayats were armed with the powers necessary for this purpose and if they failed to exercise their powers the money required to pay the chaukidars was levied from the panchayats themselves. Mr. Westmacott pointed out* that it was inconsistent and unfair that the property of a member of the panchayat should be liable to distraint on the assumption that they were the representatives of the villagers, when they had neither been elected by them nor willingly consented to act as their representatives. Mr. Westmacott seems to have thought that if experience showed that, by the adoption of his proposals or of any other measure to make the panchayat's duties less disagreeable the villagers could be induced to undertake the duties willingly, then it would cease to be necessary to hold the members personally liable for any deficiency in the Chaukidari fund. Experience has shown that on the removal of the most unpleasant features of service on a panchayat, leading men of the villages and even men occupying high social positions are no longer reluctant to accept membership. As foreshadowed by Mr. Westmacott, where the Village Self-Government Act is in force

* Cf. paras. 23 and 30 of Mr. Westmacott's note annexed to the report of the Monro Committee, dated 27th April 1893 and also paras. 60 to 63 of the Committee's Report.

INTRODUCTION.

no member of a union board is liable to have his personal property attached an account of a deficiency in the union fund.

10. Leaving the administration of chaukidari fund, let us turn now to another aspect of Village Self-Government (e). (In April 1883 as Select Committee of the Bengal Legislative Council was considering a draft bill which provided that any village or group of villages might be constituted into a union; that in each union there should be established a union committee elected by the residents which should manage a union fund consisting of the proceeds of pounds, of a contribution from the district road fund for village roads and of certain other unions; that the union committee should control pounds, primary school and dispensaries and perform other duties and should have an establishment of its own for the purpose.)

11. Westmacott thought it desirable that "the same body of leading, and representation villagers who now perform the function of the chaukidari panchayat should form the union committee" but so long as it were necessary to make the duties of the chaukidari panchayat compulsory he held that the amalgamation of the two bodies by legislation was impracticable. Panchayat are, by penalty, compelled, whether they like it or not, to perform certain duties, whereas local self-government by an unwilling agency would be ridiculous. At the same time he considered it desirable that union committee should, if possible, be induced to undertake the collection of the chaukidari rate and the control of the chaukidars; but he pointed out that it would be absolutely inconsistent to make it compulsory for them to do so or to inflict any penalty beyond that of supersession which is imposed in case of neglect of their other administrative functions. He thought that local boards should not exercise any control over union committees in chaukidari matters and that where the union committee failed to pay the chaukidars the Magistrate might be empowered to supersede them and to form a panchayat.

12. It is remarkable how closely the Village Self-Government Act conforms to the ideas expressed by Mr. Westmacott

(e) *ibid.* paras. 29, 30 and 32 of Mr. Westmacott's note, cited above.

INTRODUCTION.

36 years before the Act was passed. The Act provides for the constitution of union boards of which at least two-thirds of the members will be elected. The union boards will exercise the combined powers of the late panchayats and union committees and will control (f) chaukidars, village roads, water-supply, sanitation, primary schools, etc.; they will have an establishment of their own and will administer a union fund to which the main contribution will be grants received from the district board, proceeds of pounds in the union, and the union rate which will take the place of the chaukidari tax. The Act also provides that, if the chaukidars are not paid punctually the Magistrate may temporarily relieve the union board of the duties of collecting the rate (sec. 54) without removing the chaukidars from their control. The union board may also be superseded by order of the Commissioner (sec. 56) for a definite period or the Act may be withdrawn from the union, whereupon a chaukidari panchayat will be again constituted (sec. 3). Local boards will have no control over union board in matters relating to chaukidars.

13. Unfortunately the proposals contained in the bill of 1883 were not accepted by the Secretary of State at the time and, by the Bengal Local Self-Government Act of 1885, the district board was made the unit of administration (g). "This was beginning at the wrong end, for a system of Local Self-Government ought to start from the bottom and work up, rather than from the top and work down." The experience of the 36 years that elapsed between the bill of 1883, and the Act of 1919 served to prove the uselessness of intermediary bodies such as local boards and the success attained by (h) certain union committees towards the end of that period showed that with encouragement and guidance they form most efficient bodies for the administration of village affairs and that the villagers are quick to understand and appreciate their methods of working. Union committees or boards are, in fact, or may easily be made, bodies closely in touch with popular sentiment and they provide the best conceivable means by which the people may attain success in self-government

(f) Cf. Secs. 26(1), 22, 23(1), (1A), (x) and (xi); 29, 31; 30; 27 28; 32; 37, 41, 45 and notifications under the Cattle Trespass Act.

(g) Cf. para. 99 of the Report of the District Administration Committee.

INTRODUCTION.

in local matters and learn to exercise a sound judgment in larger affairs and thus qualify themselves for national self-government.)

14. Mr. Rivers Thompson, in stating the objects and reasons of the Chaukidari Act VI of 1870, said "it is the business and the policy of the Government to leave as much as possible of the business of the country to be done by the people themselves." Panchayats have existed from time immemorial for social and caste purposes and the people have always been accustomed to refer their minor disputes to informal tribunals composed of men who command general respect. The Penal and Civil Codes introduced by the British Government have ignored and tended to oust this indigenous method of judicial administration; but Part II of the Village Self-Government Act now gives legal sanction to the decision of petty civil and criminal cases by persons elected by the villagers. Such cases will be tried without legal practitioners and by the simplest procedure. (h) Proposals for the establishment of union benches were made in 1893 by the District Board of Hughli and supported by Mr. (now Sir F. W.) Dukes who considered it necessary that union committees should have magisterial powers to punish breaches of bye-laws made by them for the improvement of sanitation, the maintenance of a pure water-supply and other matters under their administration, (Mr. Lutman Johnson, Commissioner of Dacca, in a letter also written in 1893 said that he looked forward to a time when village councils may provide the inhabitants of Lower Bengal with speedy and simple justice at their own doors. He added that from his own experience he could endorse the opinion that the village *matbor*, at least in Eastern Bengal, is sufficiently educated and public-spirited to be a member of Village Councils.)

15. The natural sentiment of the rural population of Bengal is essentially democratic though the people may be somewhat indolent and inclined to yield too readily to an

(h) Cf. letter No. 569M., from the Magistrate of Hughli, Commissioner of Burdwan, dated the 30th June 1893.

* Cf. letter No. 3672J., to the Secretary to Govt., dated the 10th Dec 1893

INTRODUCTION.

assertion of superior authority. In former times the village community were left to appoint and pay the village policeman as they pleased—an extreme to which democracy has probably not been carried in any other country. (i) Legal sanction was given to this system by section 21, Regulation XX of 1817 and remained in force until 1886 when it was taken away. Both before and since that year the principle that the chaukidar should be the policeman of the people rather than the policeman of the Government has again and again been assailed by officers and administrators who, in their zeal for efficiency, did not realize that success attained by methods opposed to popular sentiment cannot be more than temporary, while permanent improvement can only be secured by following lines approved by the general community. The Police Commission of 1903 correctly gauged the situation. They pointed out that, even as a measure of police administration, the Chaukidari Amendment Act of 1886 was a mistake and they recorded their opinion (j) “it is most important to emphasize “that the chaukidar is the servant of the village community.” Sections 20 and 21 of the Village Self-Government Act have now restored, to the union board, as representatives of the villagers, at least a substantial voice in determining the appointment and the payment of chaukidar. (k)

16. From what has been said in the foregoing paragraph, it may be gathered that there is ample evidence that the principle of self-government or the management by the people of their own local affairs is a plant indigenous to Bengal which, in spite of buffeting by winds of adverse opinion and though often almost trampled down to the ground, not only survives but has grown into a sturdy *wide-spreading* tree. When a plant thrives under such circumstances it may assuredly be inferred that it is deep rooted.

(i) Attention seems to have first been drawn to this point by Mr. Lutman Johnson in paras. 7 and 8 of his letters above cited.

(j) Cf. para. 49 of the report.

(k) For a full account of the chequered history of chaukidars and panchayats during the past 50 years, see the District Administration Committee's Report, paras. 95-97 and 105-109.

17. Nothing written above is to be read as implying that members of panchayats are almost ideally perfect individuals. In every assembly of human beings there will be found some who are morally corrupt, some who are very weak, and many who are neither very good nor very bad. For the purposes of the proposition put forward in this chapter it is unnecessary to assume that the average member of a panchayat is better than the average member of the general community. The proposition is that the best way to administer the affairs of a community is to entrust the administration to representatives chosen by the people, invest them with the necessary authority and dignity and hold them responsible, not only to the Government, but still more to the people whom they represent. This policy is probably the best for every community which has reached a certain stage of development. It is maintained that Bengal has long been ripe for the introduction of such a policy. In this province, at any rate, the principle of self-government finds congenial soil and in many places is already deeply rooted in the mental consciousness of the people. In propagating the principle in new areas care must be taken to avoid undue precipitation; for in unprepared soil the plant may either be a failure from the outset or, owing to weak growth will easily become a prey to diseases and before it withers and dies the infection will be scattered to surrounding areas. When the principle of self-government has already taken root it requires only shelter and training for a little while to develop into a grand tree continually increasing and branching out in new directions.

CHAPTER II.

THE POLICY OF THE GOVERNMENT OF INDIA.

The latest pronouncement of the Government of India on Local Self-Government is contained in their resolution No. 41, dated the 16th May 1918, of which the following extracts relate to self-government in rural areas.

The domain of urban and rural self-government is the great training ground from which political progress and a sense of responsibility have taken their start, and it is felt that

the time has come to quicken the advance, to accelerate the rate of progress and thus to stimulate the sense of responsibility in the average citizen and to enlarge his experience.

Although the beginnings of local bodies can be traced to an earlier epoch, the course of Local Self-Government, as now understood was first set out by the Government of Lord Ripon. (A determined effort was made by the Government of India in 1881 to 1884 to implant a system of Local Self-Government in the country and much was said and written on the subject in those years. During and shortly after that period a number of Acts were passed to form the foundation of the new arrangements.) There was, however, little enthusiasm about the further development of the system either in official circles or outside and the advance during subsequent years, though not inconsiderable, has on the whole been slow. As might be expected, it has been more rapid in the great towns, but it has lagged behind over the country at large.

In 1907-09 the whole field of Local Self-Government came under the consideration of the Decentralization Commission, and that Commission made a number of detailed proposals on the subject almost all of which were in the direction of giving greater scope and freedom to local bodies. These proposals were referred in 1909-10 to Local Governments, and a large mass of opinions was received during the ensuing three or four years. The Secretary of State had, meantime, intimated his opinion that the time had come to undertake a general review of the results obtained by the policy of Lord Ripon's Government; and the Government of India after an intermediate correspondence with the Secretary of State and Local Governments complied with this desire by embodying their views on the proposals of the Commission in a comprehensive resolution on the main problems of Local Self-Government. This resolution was issued in April 1915.

The resolution, while indicating in broad outlines the ideals which the Government of India had before them, left the Local Government in most respects free to move "towards these ideals in the manner and at the pace which was considered best fitting to local circumstances.

As the whole subject has been so recently dealt with in the resolution of 1915, the Government of India do not propose to re-state the history or the objects and principles of Local Self-Government in this country at any length. The first and foremost principle which was enunciated in Lord Ripon's resolution of May 1882 and which has since been emphasized by successive Secretaries of State, is that the object of Local Self-Government is to train the people in the management of their own local affairs and that political education of this sort must, in the main, take precedence of considerations of departmental efficiency. It follows from this that local bodies should be as representative as possible of the people whose affairs they are called on to administer, that their authority in the matters entrusted to them should be real and not nominal, and that they should not be subjected to unnecessary control, but should learn by making mistakes and profiting by them. The general policy, therefore, must be one of the gradual removal of unnecessary Government control and of differentiating the spheres of action appropriate for Government and for local bodies respectively.

The control of Government over local bodies is at present exercised both from within and from without, and it is mainly by the substitution of outside for inside control and by the reduction of outside control, so far as is compatible with safety, that progress in the desired direction will be achieved. The internal control is capable of relaxation by the introduction of a greater use of election in the selection of members and chairmen of boards; and the external control by such means as the removal of unnecessary restrictions in connection with taxation, budgets, the sanction of works and the local establishments.

In dealing with the election of members to local bodies the Decentralization Commission proposed that municipal boards and rural boards—district and sub-district—should ordinarily have a substantial elective majority, nominated members being limited to a number sufficient to provide for the due representation of minorities and official experience. The Government of India are now of opinion that as a general principle the Commission's proposals in favour of a substantial elective majority, both as regards municipalities and as

regards rural boards, should be accepted and carried out by the Local Governments. Where the members of district boards are elected by the sub-district boards there is no reason to interfere with this arrangement, but the observance of the principle should be enforced as regards the elective element in the membership of the sub-district boards which make the elections for the district boards. As regards the special representation of minorities where this is necessary, the Government of India would prefer that this should be effected by retaining the practice of nomination rather than by introducing some system of communal or proportional representation. But, as regards the special representation of official experience, they consider that this might often be adequately secured by the nomination to the board of men possessed of such experience for purposes of advice or discussion only and without the right of voting. It has been suggested that, apart from the officials who would count as supernumeraries under the above arrangement, the proportion of nominated members on a board should not ordinarily exceed one-fourth; and it will be open to Local Governments to adopt a standard of this character, but the Government of India recognise that in the case of boards to which the elective system has not hitherto been applied there may be local opposition to the immediate introduction of election on so extensive a scale and the proportion of nominated members on boards must necessarily vary from place to place. In cases where it is considered advisable to retain the power to nominate to a certain number of posts for the purpose of retaining the services of men who would not stand for election, it should be considered whether a system by which a proportion of the members should be co-opted by the remainder and hold office for a period longer than that ordinarily prescribed would not serve to meet the same object. In one province proposals are now under consideration for dispensing altogether with nomination by (i) omitting the official members in view of the existence of expert servants of the boards, (ii) meeting the case of minorities by communal representation, and (iii) introducing a system of co-opted "aldermen" on the lines above described in order to attract men who will not stand for election. Except so far as it provides for communal representation, a scheme of this character coincides with the principles which the Government of India themselves advocate and, in the cases where the question of

communal minorities does not arise, it indicates a line of action which ensures the full exercise of the right of election to local bodies. It should be recognised that by whatever method this may be effected a substantial increase should be secured in the present elective element in local bodies and in view of this contemplated increase the Government of India desire that district officers should, as recommended in paragraph 534 of the Decentralization Commission's Report, utilize their district boards more fully than at present for consultation and advice in matters of general concern which lie outside the sphere prescribed for the activities of these boards.

In accepting the proposals of the Decentralization Commission with regard to the provision of a substantial elected majority on local bodies, the Government of India desire to add the important corollary that the franchise for such election should be sufficiently low to obtain constituencies which will be really representative of the body of the rate-payers. So far as information is at present available, it would appear that the average electorate in municipalities in India represents some 6 per cent. of the population and the electorate in district boards some 6 per cent. It is recognised that a full elective system analogous to that which obtains in the West (such as the municipal franchise in England which is understood to include some 16 per cent. of the population concerned) cannot be immediately or universally applied, but it should be regarded as the end to be kept in view and worked up to. The relation of the electorate for local bodies to that which may hereafter be provided for purposes of elections to the provincial legislatures is a matter which will have to be taken up separately ; but several Local Governments have already under consideration an extension of the existing franchise for rural boards and where such extensions can be made without recourse to special legislation there is no objection to their being carried out at once if the Local Governments concerned are of opinion that this can be done without inconvenience. An enlarged franchise is in any case an essential condition of an extension of the elected element on boards and it should be understood that the increase in the elective element on local bodies must, if it is to be of value, be accompanied sooner or later by a substantial extension of a franchise upon which that election is based.

The circumstances of district boards and of large sub-divisional boards, such as those in Madras, are materially different from those of municipalities, since they need much more time and widely extended travelling on the part of the head of the board if the work is to be satisfactorily carried out. The Government of India would urge provincial Governments to arrange for the election of chairmen, wherever this is possible, and where this is not possible to encourage the appointment of non-official chairmen. When the chairman is a non-official, however, they think it essential in regard to districts boards and to such sub-district boards as deal with large areas that, as in the case of large cities, the ordinary official work should be largely in the hands of a special executive officer, whose appointment should require the approval of the Government and who should not be removed in ordinary circumstances without Government sanction. If such a board, wishing to save the expense of a special officer, or desirous of remaining under the Presidency of the Collector or of one of his assistants, should wish to elect such an official as Chairman, the Government of India think that its wishes might be acceded to, subject to the condition that the election should be made by the non-official members of the board and that it should be a special matter requiring confirmation by the Commissioner or some higher authority.

The Commission proposed that, if a municipal or rural board had to pay for a service, it should control it; and that, where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one.

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The Government of India are now of opinion that in this matter it would be well to go the whole way with the Commission, in accordance with the general principle that if local bodies have to raise funds for any particular object they should have the control of these funds. If a board is to provide, for instance, for civil works or medical relief, it ought, subject to such general principles as the Government may prescribe, to have real control over the funds thus

provided, and should not be under the constant dictation of Government departments in matters of detail.

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The Decentralization Commission recommended that municipalities and rural bounds should have a free hand with regard to their budgets. The only check required should, in their opinion, be the maintenance of a minimum standing balance to be prescribed by the Local Governments.

In this case, as in that of municipalites, the Government of India desire that the recommendations of the Commission should be realised as soon as possible subject only, as in the case of municipalities, to control in the case of rural boards which are indebted to Government and in cases of gross default.

The Government of India would similarly endorse the recommendation made in the Decentralization Commission's report that the system of requiring local bodies to devote fixed portions of their revenues to particular objects of expenditure should be done away with as unduly limiting their freedom of action, subject, as indicated by the Commission, to outside intervention in case of grave neglect or disregard. If the Government give a grant for a particular object, the money must, of course, be applied thereto, but the Government of India endorse the Commission's recommendation that grants in aid should normally take the form of a lump grant or a percentage contribution towards specific services rather than be more definitely earmarked.

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The Decentralization Commission further proposed that the existing restrictions (on municipalities) which require outside sanction for works estimated to cost more than a certain amount should be removed, but that Government should scrutinize and sanction estimates of projects to be carried out from the loan funds.

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The Government of India still adheres to the views expressed by them in 1915 (that the grant to rural

boards of full powers in the allotment of funds and in the passing of estimates cannot for the present be conceded), but they would ask for a definite indication on the part of Local Governments that, allowing for the necessarily different circumstances of different boards, there will now be made a material advance in the direction of the proposal made by the Decentralization Commission.

It was also recommended by the Decentralization Commission that the degree of outside control over establishments should be relaxed but that the appointments of chief executive officers or engineers and health officers, where these existed, should require the sanction of the Local Government, and that the same sanction should be required for any alteration in the emoluments of these posts and for the appointment and dismissal of the occupants. As regards other appointments, the Commission proposed that the Local Government should lay down general rules in respect of such matters as leave, acting and travelling allowances, pensions or provident funds and maximum salaries, and that their sanction should be required for any deviation therefrom The Government of India are now of opinion that steps should be taken to carry out into practice the general recommendations of the Commission in respect both of municipalities and of rural boards. They consider, moreover, that the requirement of Government sanction to the appointment and dismissal of the special officers above mentioned may properly be accompanied by the right on the part of Government to require their dismissal in cases of proved incompetency.

In addition to the specific forms of outside control to which reference has above been made, the existing legislation confers certain special powers of intervention on the part of Government officers. It is certainly necessary to maintain such ultimate powers of intervention which are in no way peculiar to India, and which carry out the view expressed in paragraph 17 of the Government of India's resolution of the 17th of May 1882, that the control

of Government over local bodies should be exercised from without rather than from within, and that the Government instead of dictating the acts of local bodies should revise and check them. In view of the relaxations which are contemplated in respect of the powers of external control exercised by Government in respect of taxation, budgets, public works and local establishments, it might be expected that the powers of Government officers in respect of external intervention should, if altered at all, be altered in the direction of greater stringency. In consequence of the increasing demand for sanitary improvements, it may indeed be necessary to provide a special agency for enforcing modern requirements in the matter of sanitation, and to provide that agency with adequate powers. Moreover, very important changes may be necessary in the procedure and organization of public works establishments as a consequence of the inquiries recently made by the Public Works Department reorganization committee.....But, with the possible exceptions above cited, the Government of India do not suggest the addition of any substantial powers of intervention on the part of Government officers.....They would further suggest that penal action from outside might in some cases be dispensed with if the Government took power to itself to dissolve a municipal council or rural board and required a fresh election before making use of the more drastic powers conferred upon it by the legislature.

As regards the agency through which the outside control of Government should be exercised the proposal has from time to time been put forward that the main powers of control should be concentrated in the hands of a central board at provincial head-quarters working under Government and invested with powers of compulsion similar to those enjoyed by the Local Government Board in England. A proposal to constitute a board of this character was put forward for Bengal in 1882 and was negatived by the Secretary of State. It was again examined by the Decentralization Commission and rejected by them in 1909. The Local Governments concurred in the conclusions of the Commission and the Government of India in their resolution of 1915, vetoed the scheme as not only unnecessary, but tending also to perpetuate the very centralization in local affairs which it is the object of Government to diminish. The Government of India recognise that

the powers of collectors and Commissioners should be maintained, but they would suggest for the consideration of the provincial Governments the constitution of a central body which should co-ordinate the experiences of the local bodies and provide improved control and guidance by entertaining further expert inspecting establishments, if necessary. Such a central body should be in direct touch with the Government and might fitly be presided over by a member of the Executive Council where such exists. It should further be considered whether in place of a formal board there might not be a Standing Committee for local and municipal affairs in indirect contact with the Government, to be largely drawn from elected members of the Legislative Council.

The subject of an organization for the development of village life was brought into special prominence by the Decentralization Commission. They recommended that the members of village panchayats should be informally selected, the headman being ordinarily ex-officio chairman. They proposed that to these panchayats should be attached civil and criminal jurisdiction in petty cases.....The administrative functions of the panchayat were to include sanitation and education.

With the general line of the Commission's proposals the Government of India in their resolution of 1915 expressed their concurrence, and in leaving the matter in the hands of Local Governments they suggested the following general principles as indicating the lines on which advance was most likely to be successful :—

(i) The experiments should be made in selected villages or areas larger than a village, where the people in general agree.

(ii) Legislation, where necessary, should be permissive and general. The powers and duties of panchayats, whether administrative or judicial, need not and, indeed, should not, be identical in every village.

(iii) In areas where it is considered desirable to confer judicial as well as administrative functions upon panchayats the same body should exercise both functions.

(iv) Existing village administrative committees, such as village sanitation and education committees, should be merged in the village panchayats where these are established.

(v) The jurisdiction of panchayats in judicial cases should ordinarily be permissive, but in order to provide inducement to litigants, reasonable facilities might be allowed to persons wishing to have their cases decided by panchayats. For instance, court fees, if levied, should be small, technicalities in procedure should be avoided and possibly a speedier execution of decrees permitted.

(vi) Powers of permissive taxation may be conferred on panchayats, where desired, subject to the control of the local Government ; but the development of the panchayat system should not be prejudiced by an excessive association with taxation.

(vii) The relations of panchayats on the administrative side with other administrative bodies should be clearly defined. If they are financed by district or sub-district boards there can be no objection to some supervision by such boards. \

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The Government of India concur in the views expressed in the resolution of 1915. They would, however, modify the first of the principles suggested in that resolution by saying that the area under a panchayat should normally be a village unless, as above stated, villages are so closely connected that they may be treated as one. The Government of India would further omit the seventh of the principles quoted above on the ground that at the present stage it is not desirable to make any rigid classification of the connection of panchayats with other administrative bodies from which indeed they should be kept apart as much as possible, while the way in which they do their work should be tested by inspections by the administrative district staff. At the outset, moreover, such control as is necessary in the way of replacing incompetent panchayats or members of panchayats, should be exercised by the local revenue officers provided that these be of a grade higher than that of tahsildar.

As regards the constitution of the panchayat, the points to which the Government of India attach most importance

are the association of the principal village officers with the panchayats and an informal election of the other members by the villagers themselves. They would, however, allow the panchayat to choose its own president and would not render it obligatory that the president should be the village headman as suggested by the Decentralization Commission. Of the possible functions to be assigned to panchayats the most important are, in their opinion, village sanitation and village education (in the directions indicated in paragraph 712 of the Decentralization Commission's Report) and jurisdiction in petty civil and criminal cases. With reference to this last class of functions, it is especially desirable that the panchayat should be, as a rule, a body representing a single village, otherwise the great safeguard for the proper disposal of such cases, namely, local public opinion, will be lost. It should also be permissible, though not as the Commission suggested universally necessary, that the panchayat should receive some portion of the land cess raised in their villages. The Government of India are also prepared, differing herein from the opinion of the Decentralization Commission, to allow to the panchayats voluntary powers of supplementary taxation, the proceeds of which would be devoted to the special purpose or purposes for which the tax was levied.

It is not intended to prevent in any way the establishment of unions or circles for Local Self-Government purposes. Such unions or circles may be a very useful adjunct to district and sub-district boards, relieving them of duties which can be better discharged by committees dealing with smaller areas and such bodies would be specially useful and desirable in tracts in which it is found impossible or premature to establish a village panchayat system.

It is hoped that by the adoption of the policy indicated in this resolution a substantial advance may be made in the direction of a more developed and more liberal form of Local Self-Government. It is probably in the sphere of Local Self-Government more than in any other that the changes which are now being effected in India will touch the great mass of the population. If the local administration is freed in the

manner proposed from undue official guidance, a vast number of persons should feel themselves for the first time placed in effective control of the matters which affect their every day life and the local bodies will be invested with opportunities not hitherto enjoyed by them of improving the conditions of the populations entrusted to their charge. The duties of local bodies cover most of the activities upon which the essential welfare of the country depends. They have the care of the public health and all the circumstances upon which that health depends: they control elementary education: they construct and maintain local buildings and communications and they touch the life and convenience of the people at every point. In the development of their interests and the extension of their responsibilities the self-government of the country will secure a very real and important advance and it is on the increased experience to be gained in the administration of local civic affairs that the country must to a large degree rely for the expansion of its self-dependence in the sphere of central government.

CHAPTER III. (a).

SUMMARY OF THE VILLAGE SELF-GOVERNMENT ACT.

General Summary.

The District Administration Committee appointed by the Government of Bengal in 1913, recommended a reorganization of the system of Village Self-Government. They pointed out that the union committees established under the Local Self-Government Act of 1885 (Bengal Act III of 1885) had largely failed to secure an effective system of rural self-government, inasmuch as under the Act the district board is the administrative unit and the union committee is merely a subordinate body exercising restricted powers and dependent mainly on the district board for funds. They were further of opinion that the scope of the functions of *chaukidari panchayats* was too little related to the needs of the villages; and they came to the conclusion that their extended usefulness and improvement were most likely to be secured by amalgamating their

(a) The main substance of this Chapter is taken from the statement of objects and reasons published with the Village Self-Government Bill on its introduction in the Bengal Council on the 4th April 1918. Some modifications have been rendered necessary by the amendments made during the passage of the Bill through the Council.

functions with those of the union committees. (b) They proposed that every district should be mapped out into village unions administered by union panchayats, which should deal not only with the village police, but also with village roads, water-supply and sanitation and which should also exercise judicial functions, both civil and criminal. The object of the Village Self-Government Act is to give effect, with certain modifications, to the scheme of reorganization proposed by the District Administration Committee.

2. The intention of the legislature is to build up a system of rural self-government based on village union authorities vested with the powers and duties necessary for the management of communal village affairs,—and entrusted with powers of self-taxation necessary for that purpose. The new village union authority, which is called the union board, will exercise a general control over the dafadars and chaukidars of the union and the president is to be elected. The principal funds administered by the union boards will consist, in addition to the income of pounds and other grants made over by district boards, of a union rate, which will be devoted to the pay and equipment of the dafadars and chaukidars, to the salary of any other establishment employed by the union board, and also to the execution of public works. The assessment of the rate will be according to circumstances and property within the union and will be subject to revision by the district magistrate.

The district magistrate will retain control in matters relating to dafadars and chaukidars, but in all other matters union boards are placed under the superintendence of the local board and the ultimate control of district board. In case of incompetence or wilful neglect of duty the divisional commissioner may remove the president or supersede a union and will have power to provide for village-sanitation, conservancy and drainage, to deal with the erection of buildings, water-supply, village roads and bridges, and to manage primary schools and dispensaries. Power is given to Government to confer jurisdiction in petty civil and criminal matters on any two or more members of a union board. The

(b) This proposal did not originate with the D. A. Committee. It had been put forward at least as early as 1883.

power reserved to Government to constitute union benches and union courts is permissive, and the ordinary courts will have concurrent jurisdiction. Appeals from the decisions of union benches and union courts are not allowed, but in criminal trials the sub-divisional or district magistrate, and in civil suits the district judge may order a retrial or may cancel or modify the order if there is a failure of justice. The number of members of the union board is to vary from 6 to 9, not less than two-thirds of whom are to be elected. If there is danger of a breach of the peace or of other injurious consequences, the district magistrate or the district board must suspend any action of a union board pending the decision of a reference to the commissioner.

On the extension to any union of the new organization of self-government the continuance of existing bodies becomes unnecessary. Chaukidari panchayats and union committees will accordingly be abolished in that union as soon as the first president of the union board comes into office.

The Act is divided into 3 parts of which the first deals with union boards and the matters placed under their administration. It will be seen that the effect of this part is to confer on union boards the power and duties of union committees combined with those previously exercised by chaukidari panchayats and at the same time to increase the number of duties and enlarge the importance of their powers. The second part contains the provisions regulating the method by which justice will be dispensed by the new tribunals—union benches and union courts. Part III contains provisions which relate to both union boards and union tribunals.

PART I.

CHAPTER I.—The Act is not applicable to municipal areas or save, with the sanction of the Governor General in Council, to cantonment areas. In other areas it will come into force on such dates as may be notified from time to time by the Local Government (Sec. 1).

Various modifications specified in schedule I of the Act are made in the chaukidari and Local Self-Government Acts.

These modifications have the effect of abolishing union committees and panchayats in unions to which the Act is extended. Provision is also made for transferring the assets of the abolished bodies to union boards. In order that there may be no interval during which a part of a district may be left without any legally empowered local authority or the union fund may lose income by the lapsing of rates, the panchayat and union committee will continue to exercise their powers in that part of the district until a union board is duly constituted and has a president; the union board may then recover any sum due to the panchayat or union committee and assessments made by those bodies will continue in force until a new assessment is made by the union board (Sec. 2). If the Act is ever withdrawn from any part of a district, the chaukidari and Local Self-Government Acts will in that part be revived in their previous form (Sec. 3).

CHAPTER II.—On the extension of the Act to any area that area will be divided into unions, the district and local boards being consulted as to the method of division (Sec. 5). A union board will then be established for each union. The number of members will be not less than 6 or more than 9, of whom at least two-thirds will be elected, and the remainder will, if the Local Government so directs, be appointed from among persons qualified for election. If the electors fail to elect the full number of members required the district magistrate may either order a fresh election or appoint persons to fill the vacancies (Sec. 6).

The electors will be the adult males who ordinarily reside, or at least have a place of residence, within the union and who pay at least one rupee a year as cess or union rate (c). A joint undivided family is treated as a single person and will have only one vote. The adult male members of the family must unitedly decide which of them will exercise the vote (Sec. 7).

An elector who ordinarily resides within the union is also qualified to be a member of the union board (Sec. 7).

(c) See Chapter IV of this Introduction and notes under section 7 of the Act.

Persons (d) who are not British subject or subjects of any state in India are disqualified as electors and as members of union boards ; but the disqualification may, as regards any person or class of person, be removed by notification of the Local Government (Sec. 10).

The president of the union board will be elected by the members from among themselves and they may, if they consider it advisable elect another member as Vice-President (Secs. 8 & 9). The president and vice-president will ordinarily retain their offices during the life of the board which elects them (Sec. 14).

A union board will ordinarily remain in office for 3 years ; but this period will be extended until such time as a new board is constituted and holds its first meeting (Sec. 11).

Under the Local Self-Government Act the commissioner was empowered to remove a member of a union committee and under the Chaukidari Act the district magistrate could remove a member of a panchayat ; but power to remove a member of a union board is vested in the district board (Sec. 12).

No provision was made in the Local Self-Government Act for the resignation of a chairman or member of a union committee. In the present Act it is provided that a president of a union board who wishes to resign shall notify his intention to the chairman of the district board and that a Vice-President or other member shall notify to the union board (Sec. 15).

Another new provision gives power to the district board to remove the president of a union board and to the union board to remove its Vice-President (Sec. 16).

Under section 20 of the Local Self-Government Act the status of a corporate body was conferred on district board. An exactly similar status is granted to union boards (Sec. 18).

CHAPTER III.—*Provides for Village Police Administration.*—Dafadars, or head-chaukidars, have existed since 1894, and rules concerning them have been in force for several

(d) Apparently section 10 might be placed more appropriately between sections 7 and 8.

years ; but they are now for the first time mentioned in an Act and distinguished from ordinary chaukidars the supervision over whom is their chief duty. The Act places dafadars under the control of the union board to the same extent as chaukidars, but the duties which will be imposed on them by rules under section 24(2) will probably bring them into closer connection with the thana police officer between whom and the chaukidars they will act as the connecting link.

Both chaukidars and dafadars will be nominated by the union board who will also pay their salaries [clause (1), sec. 20 and clause (2), sec. 21] ; but the final decision as to appointments will remain with the district magistrate.

In determining the number of chaukidars and dafadars to be employed, their salaries and their equipment, the district magistrate will consult the union board [clause (1), sec. 21].

The union board may punish a chaukidar or dafadar with fine not exceeding a quarter month's salary or, with the district magistrate's sanction may dismiss him. The district magistrate is also empowered to punish a chaukidar or dafadar with fine not exceeding a month's salary or with dismissal [sec. 22 and clause (2), sec. 20]. Fines thus realized from chaukidars and dafadars will be credited to a district chaukidari reward fund (sec. 25).

Chaukidars and dafadars are empowered, in specified circumstances, (a) to arrest criminals or persons reasonably suspected to be criminals, (b) to interfere for the purpose of preventing crime (sec. 23). Any person they arrest must be taken at once, or as soon after as possible, to the police station (sec. 24).

The first duty of a chaukidar is to give information to the officer in charge of the police-station and to the president of the union board of all unnatural deaths that occur, of all crimes that are committed and of all disputes likely to lead to a breach of the peace in the union. In addition to the exercise of the powers conferred on him, it is also his duty to report to the police the movement of bad characters and the arrival of suspicious persons and any other local information required by a police officer or the district magistrate.

He must obey the orders of the union board in regard to keeping watch and ward and especially in guarding the tanks, wells, roads and other property under the control of the union board. (cf. cl. IX, X and XIII). His multifarious duties also include the service of processes, assisting in collecting the union rate, the reporting of births and deaths and any other duties that may be imposed on him in accordance with the Act and rules thereunder.

CHAPTER IV.—In addition to the control of the village police, the duties of a union board include all measures necessary for the conservancy, sanitation and public health of the union (e), the control of roads, bridges and waterways (f), the administration of such pounds and public ferries as may be made over to them (g), the supply of local information to the district magistrate, district board or local board and the making of proper provision for the service of processes within the union (h).

A union board may also establish or take charge of primary schools (i) or dispensaries, may provide for a proper water-supply for the union, (j) may make new roads and bridges, improve roads and bridges or provide for the lighting of roads and public places, may adopt building regulations (k) and may carry out any other work likely to promote the health, comfort or convenience of the public (k).

If the district board so orders, the optional duties of the union board in regard to water-supply and sanitation will become compulsory (secs. 27, 30 and 55).

To enable it to carry out some of the compulsory and the optional duties entrusted to it, the union board is armed with various powers (l) :—

(e) Cl. (b), (c), (d) and (e) of sec. 26.

(f) Sec. 31.

(g) Cl. (2), sec. 26 of this Act and sec. 35 of the Bengal Ferries Act as amended by schedule I of this Act.

(h) Clauses (1) (f) and (4), sec. 26.

(i) Sec. 32.

(j) Sec. 30.

(k) Cl. (5), sec. 26.

(l) It is desirable that the powers conferred by the Act should be supplemented by some simple bye-law.

(a) to improve the sanitary condition of any part of the union, (m) the union board is empowered to enforce the removal of a private, hut or privy, the making or alteration of drains for a building and the taking of any action necessary to improve the condition of any place which is offensive or dangerous to the health of the neighbourhood

(b) the union board is empowered to reserve for drinking or cooking purposes any tank, well or other water-supply which is under its control or on which expenditure has been incurred from the union fund. Any person bathing in or otherwise polluting a water supply thus reserved is punishable with fine up to Rs. 25 (n)

(c) with the previous sanction of the Local Government, any trade declared to be offensive or dangerous may be regulated and licensed by the union board (o)

(d) if necessary for the performance of its duties under the Act, the union board or any member or officer of the board is empowered, under certain restrictions, to enter private premises (sec. 35)

(e) a union board may employ a conservancy establishment and such other establishment as may be approved by the local board (p)

CHAPTER V.—*Makes Provision for the Finance of Union Boards.*—The union board will imposed a yearly rate sufficient to pay for the village police and any other establishment employed by it. The rate imposed will also provide for such expenditure on sanitation, water-supply, roads, primary schools and other works of public utility as may be approved (q) by not less than two-thirds of the total number of members of the board at a meeting specially convened for the purpose. Ten per cent. extra will be allowed to cover cost of collection and losses by default (Sec. 37).

(m) Secs. 27 and 28.

(n) Sec. 30.

(o) Sec. 34.

(p) Secs. 28 (1) and 36.

(q) As it is not often that more than two-thirds of the members of a public body attend, the requirements of the Act practically amount to a unanimous vote in favour of the estimates at a meeting for which the quorum is two-thirds of the total number of members.

The district board will make a special grant in aid to every union board which provides for public improvements from the union rate (Sec. 45).

The union rate will be assessed on residents and owners of buildings and their assessments will be according to their circumstances and property within the union. The minimum assessment will be half-an-anna a month. Persons too poor to pay that amount will be exempted altogether. The maximum assessment will be 84 rupees a year (r) (Sec. 38).

Assessment may be revived by the union board and by the district magistrate (Secs. 39 and 40).

Arrears may be recovered by distraint and sale of movable property belonging to the defaulter or found on his premises or land (Secs. 41 to 44).

Members and officers of union board (s) are prohibited from bidding for or buying property sold under the provisions of this Act (Sec. 102).

Excepting disciplinary fines imposed on the village police, all other fines, fees and costs realized under the Act, and all contributions to and other receipts of the union board, union bench and union court will be credited to the "union fund."

The salaries of the village police and other establishment of the board will be the first charge on the union fund and from the balance all other expenses incurred by the union board, bench and court for the purposes of the Act, will be defrayed (Sec. 46).

Compensation may be paid from the union fund to any person sustaining damage by the exercise of any power conferred by the Act (Secs. 36 and 61).

(r) A joint undivided family will be assessed as a single person.

(s) As sales ordered by a union bench or court will be carried out by the union board (cf. sec. 98), it would apparently be appropriate to place sec. 102 between sec. 44 and sec. 45.

CHAPTER VI.—The powers which a district magistrate may delegate to other officers are specified in schedule II (Sec. 47).

Disputes between two unions boards will be settled by the next superior board to which they are both subordinate (Sec. 48).

A dispute between a union boards and a municipal authority will be referred to the district magistrate for decision (Sec. 49).

Except in village police matters, union boards will be superintended by the local board.

It is the duty of the commissioner, the district magistrate the sub-divisional magistrate and the chairman of the district and local boards to see that the proceedings of union boards are in conformity with law and rules thereunder (Sec. 51). They are armed with the necessary powers of inspection (Secs. 52 and 53) and the commissioner is empowered to annul proceedings of union boards and to take any other action necessary to secure compliance with law and statutory rules (cl. 2, sec. 51).

In lieu of the personal liability imposed on members of chaukidari panchayats for the defaults of the entire community, it is provided that if the union board does not pay the salaries due to its village police and other establishment and the cost of equipment of the village police, the district magistrate may appoint one or more person to collect the amounts due and, in addition, the expenses incurred in making the collections. Persons so appointed are empowered to realize arrears due from defaulting assessees and, if necessary, to make a supplementary assessment on the union (Sec. 54).

If a union board is incompetent or wilfully negligent in the performance of its duties, the commissioner may supersede the board for a specified period or may remove the president. If the commissioner adopts the latter course, the president will cease altogether to be a member of the board. If he adopts the former, the union board will be reconstituted at the end of the period of supersession (Secs. 56 and 57).

If an emergency arises and there is danger of a breach of the peace or other injurious consequences, the district

magistrate or the district board may suspend any action of a union board pending the decision of a reference to the commissioner (Secs. 58 and 59).

In regard to the legal position of union boards, it has already been mentioned that every union board is a body corporate (Sec. 18). Members and officers of a union board are prohibited from having any pecuniary interest in work done by or for the union board, but with the sanction of the local board, a member of the union board may be exempted from this provision. The prohibition also does not extend to certain specified forms of more or less indirect pecuniary interest (sec. 60). Members of a union board are not personally liable for contracts made or expenses incurred by the board as a body corporate; but any member who is knowingly a party to a wilful misapplication of union board money is liable to be sued by the district board. (sec. 62). No suit will lie, no injunction may be issued and no other legal proceedings may be taken against a union board or any of its members or officers, acting under its direction, for anything done lawfully and in good faith and with due care and attention under this Act or rules thereunder (sec. 63). One month's notice in writing must be given before any suit or other legal proceeding can be brought against a union board or any of its members or officers for anything done under this Act and the period of limitation for such suits and proceedings is three months from the accrual of the cause of action (sec. 64).

PART II.

CHAPTER VII.—*Provides for the administration of justice by village tribunals.*—Any two or more members of the union board may be appointed by Government to be a union bench for the trial of petty criminal cases, or a union court for the trial of petty civil cases arising within the union or any part of the union (secs. 65 and 73).

In the past it has been the practice of many magistrates to refer certain classes of cases to president panchayats for enquiry and such cases are frequently settled without difficulty by them. Under the present Act, when cases of the kinds specified in Part A of Schedule IV occur in a union, they may

be tried by the union bench, to which cases of the more serious kinds specified in Part B may also be transferred by the district or sub-divisional magistrate. It will still be open to the complainant to institute his case in the ordinary court; but a magistrate before whom a case triable by a union bench is brought may transfer the cases to the union bench. The district or subdivisional magistrate may also transfer a case from a union bench (sec. 66).

A criminal complaint before a union bench is called a petition. Such petitions may be made orally or in writing before any member of the union bench and at any convenient time or place. The member after recording the main particulars of the case will direct the petitioner to appear before the bench (sec. 67).

If the petition is clearly frivolous, vexatious or untrue, the union bench will dismiss the case. If the bench considers that the case is one which should be tried by a regular court, it will direct the petitioner to such court (sec. 68). If the petitioner shows neglect in prosecuting, the union bench may dismiss the case (sec. 69).

If the union bench proceeds with the case it will, by written or oral summons, send for the accused. If his attendance cannot thus be procured, the bench will apply to the nearest magistrate to have him arrested under warrant (sec. 70).

Cases will ordinarily be disposed of on the day on which the accused appears; but if an adjournment is unavoidable, the bench will take a bond for his subsequent appearance (cl. 3, sec. 70).

The procedure of the trial will be of a very simple character. Witnesses will be heard, but their evidence need not be recorded nor will a formal charge be framed though a register will be maintained containing such particulars as the Local Government may prescribe (sec. 93 and cl. (p), sec. 101).

If the union bench convicts, it may sentence the accused to fine not exceeding Rs. 25. If the fine is not paid within 10 days the convicted person if a male, may be arrested and

sent to the nearest jail, there to serve such sentence of imprisonment in default as the union bench shall have directed in its order of conviction. No woman may be sentenced to imprisonment by a union bench (sec. 72).

The union bench has the power of ordering compensation to be paid to the accused by a person who institutes a vexatious or frivolous case. For the realization of such compensation the union bench has the same powers as for a fine imposed by it, including the power of imprisonment in default of payment; but in this case the imprisonment must be simple (sec. 72).

Fines imposed and compensation awarded by a union bench may, on its order, be realized by the union board in the same manner as an arrear of union rate (sec. 98).

Payment of the fine or compensation will secure the immediate release of persons sentenced to imprisonment in default (sec. 72).

As in English courts, a fine imposed or compensation ordered by a union bench is not recoverable from a person who has served his sentence of imprisonment in default (sec. 72).

With the exceptions specified in sections 75 and 95, union courts may try suits for money or movable property when the value does not exceed Rs. 200 (sec. 74).

It is entirely at the option of the plaintiff to institute his suit in the ordinary civil court or in the union court (sec. 74). The union court offers him the advantage of cheapness; for the fee (t) payable there is far less than the court fees, process fees and pleader's fees which he would have to pay in the ordinary civil court. He will probably find that the union court is more convenient, because nearer to his own and the defendant's and witnesses' homes. The members of the union court would also be in a better position than a strange munsiff to ascertain the real facts of the case and to deal justice between the parties. With a plaintiff whose case is good, this last consideration will have great weight.

It will be open to the defendant to move the ordinary civil court to withdraw the suit from the union court and if the value exceeds Rs. 25 the application must be granted (sec. 74).

A suit may be instituted in a union court by petition made orally or in writing, (sec. 77). If the suit is not one which the union court can try, it will direct the petitioner to the proper court. If the union court is of opinion that the suit is barred by limitation, (u) it will dismiss the suit (sec. 78).

The union court will send for the defendant (sec. 80) and will add other parties to the suit, if necessary (sec. 84).

The procedure in trials before union courts will be of the simplest possible character, as in trials before union benches (sec. 93).

A suit may be dismissed if the plaintiff is negligent in conducting it and the union court may decide a suit *ex-parte* if the defendant fails to appear when sent for; but the suit may be restored and the decision set aside on satisfactory reason being shown (secs. 79, 82 and 83).

If, in trying a suit, the union court finds that the matter in dispute is pending decision or has already been decided in another suit in the same court or in any other court, the union court will not proceed any further with the suit (sec. 85).

A union court is expected to administer not law but simple justice. In deciding a suit and making its award the union court will follow the dictates of justice, equity, and good conscience (sec. 86).

The suit fee will be entirely payable by the defendant if the suit is decreed in full but in proportion to the extent to which the claim is not decreed the defendant's liability will be transferred to the plaintiff (sec. 90). The union court will

(u) It is left to the union court to decide whether a suit is barred by limitation; but difficult points frequently arise in regard to limitation which a union court cannot be expected to decide without legal assistance. It would appear desirable to make the Act more definite. For example, in lieu of cl. (1), sec. 78 it might be provided that no suit shall lie in a union court if the cause of action arose more than a year before the petition was made.

also decide which of the parties is liable to pay the expenses of witnesses summoned from outside the union (sec. 86).

A decree of a union court may, if the union court so orders, be realized by the union board in the same manner as an arrear of union rate (sec. 99). If the union court is unable to effect satisfaction of the decree it will give the decree holder a certificate to that effect. When such a certificate is produced, the local munsiff will execute the decree of the union court as if it were a decree made by himself (sec. 91).

The union court will be stimulated to execute its own decrees by the knowledge that any amount realized by the munsiff as suit fee will, instead of being remitted to the union fund, be credited to Government.

Instead of attending in person, any party to a suit may be represented before a union court by a servant, partner or relative and a union bench may, in the same way, dispense with the personal appearance of the accused at a trial before it and, if the accused is a woman she will not be compelled to appear (secs. 97 & 98).

A union bench or union court may, by oral or written summons, require any witness to appear or to produce any document before it; but no person will be summoned unless his attendance appears to be really necessary in the circumstances. If the witness lives outside the union, the party requiring his appearance will have to pay him in advance the expenses he will incur in attending. If a witness does not obey a written summons, he may on conviction by the union bench be sentenced to a fine not exceeding Rs. 25 (sec. 96). Neither the union bench or court is empowered to issue a warrant against a witness who disobeys a summons, but the union bench may apply to the nearest magistrate for a warrant under sections 96(4) and 70(2). No woman may be compelled against her will to appear as a witness before a union bench or union court (sec. 98).

As any introduction of legal technicalities would defeat the objects for which union benches and union courts are created, legal practitioners are prohibited from appearing before them (cl. 3) (sec. 97).

No appeal is allowed from the order of a union bench or union court. Without a full record of the evidence an appellate court would not be in a position to decide whether the order was justified. Union benches and union courts are courts of simple justice, but not courts of law, they cannot be expected to keep records of trials in the same way as trained judicial officers and any attempt to do so would lead them into technical difficulties which should be carefully avoided. If, however, an order of a union bench or union court is manifestly unjust, the district or sub-divisional magistrate in a criminal case, and the district judge in a civil case may cancel or modify the orders or direct a retrial (secs. 71 and 88). Moreover, if a union bench or union court is guilty of misusing its powers, the orders of the Local Government appointing persons to be members of such bench or court may be withdrawn or modified (v).

If a judge or magistrate happens to be a member of the union board of a union, he is not thereby debarred from dealing with cases from the union court or bench (w) (sec. 103)

PART III.

The Local Government is empowered to make rules for several specified purposes and any other purpose of the Act. Rules thus made are called statutory rules and have all the force of law (x). They may be made, modified or cancelled at any time; but before any new rule is made or any rule is altered or cancelled, a notification will be published in the *Calcutta Gazette* and elsewhere in order that persons concerned may have opportunity to submit suggestions or objections (sec. 100). Rules which have been made final are reproduced at the end of this volume.

CHAPTER IV.—*Some suggestions.*—The following suggestions for the improvement of the Village Self-Government Act are offered for consideration.

(v) Cf. secs. 65 and 73 and the Bengal General Clauses Act.

(w) Sec. 100 might appropriately have been placed at the end of part II.

(x) Cf. Bengal General Clauses Act.

1. By amendment of section 7, the franchise should be so broadened as to give a vote in union board elections to every adult male paying union rate, and to every adult male member of a joint undivided family which pay union rate.

N.B.—(The provision that no persons shall be entitled to vote unless he has a place of residence in the union should be retained).

One advantage of this proposal is that it offers an equitable solution of the difficulty about members of joint families. Under the law as at present it stands, if 3 or 4 ablemen happen to be brothers or cousins living in joint mess, only one of them can exercise the vote at a union board election, and only that one can be elected to the union board; while, if they differ in opinion and cannot agree as to which of them shall be nominated to represent this family, all of them will be deprived of a vote. This result is as unreasonable as it is undesirable. On the other hand if while retaining the one rupee rate qualification for separate persons every member of a joint family paying one rupee rate were granted a vote a few large families would in a comparatively small electorate, exercise preponderating influence. This undesirable result would be avoided by so extending the electorate as to include every person who can claim to have a voice in the administration of local affairs. The number of voters would then be so large that the votes of one or two families could not greatly affect the result of an election. Now-a-days it is generally admitted that every resident who pays a local rate should have a voice in determining how the proceeds of the rate shall be spent and, as the man who pays (a) 6 annas as rate is probably not appreciably less intelligent than the man who pays one rupee, he should equally be allowed to express his opinion on local affairs.

2. Union boards should be empowered to make by laws for carrying for the purposes of the Act.

Section 31 and clauses (c), (e) and (g) of section 26 provide that union boards shall be charged with various duties, but no powers are conferred on them to enforce any orders they make for the purpose of discharging those duties. This is like giving a shadow without the substance. It should also be noticed that under section 23 (x) chaukidars are required to give immediate information to the union board of any encroachment on or obstruction to any road or waterway and of any damage to any property under the control of the union board; but the union board is not empowered to take any action on such information. It seems inevitable that unless union boards are empowered to make by

(a) persons too poor to pay 6 annas a year are altogether exempted (see 38) (a).

laws several of the provisions of the Act will remain a dead letter. Only a few simple by laws would be necessary and union boards would be generally helped by the publication of some model by laws.

3. In clause (b) of section 37 the words "not less than two-thirds of the total number of " should be eliminated.

It should not be within the power of an obstructive or foolishly conservative minority to block all improvements in the condition of a union. There is probably no modern assembly in which such a rule is in force. The amendment proposed would have the effect that any estimate involving improvements in local conditions would require the approval of the majority of the members and that they must feel sufficiently keenly regarding the improvements to attend a meeting specially convened. Surely no further restriction is required.

4. Union benches should be empowered to try all cases under the Vaccination Act and any case under any enactment other than the Penal Code punishable with fine only up to a limit of Rs. 100.

At present union benches are empowered to try offences under enactments other than the Penal Code only if the maximum punishment does not exceed Rs. 25 which is the same as the maximum sentence which the union bench can impose. Considering that union benches are empowered to try cases under the Penal Code punishable with far heavier penalties, there is no reason for such a narrow restriction of powers in regard to cases under other enactments; especially as it may be taken for granted that in the vast majority of cases in which the maximum punishment provided by the law is a fine of Rs. 100, a sentence of less than Rs. 25 is fully adequate.

5. Union benches should, in disposing of a case, be empowered to award out of the fine realized, if any, compensation to the person injured.

The award of compensation to a person who has suffered wrongful injury is a basic principle of justice. It seems impossible to imagine any reason why power to make such an award should not be conferred on union benches.

6. The powers of union courts should be enlarged to enable them to try simple suits for damage by cattle trespass and suits in which the plaintiff is a minor who pleads his own suit.

A union court is particularly well qualified for ascertaining the true facts relating to claims for cattle trespass.

At present it is difficult for a minor to obtain redress for a civil injury. He must be represented by a guardian for the purpose of the suit; he must apply to a munsifi probably at a distant place and must observe all the formalities required in civil courts. It would often be a great advantage to a minor plaintiff to have his suit tried by the union court which would ascertain the facts by more simple and direct means than a munsifi or small cause court. This proposal would not be in any way unfair to the defendant who might gain a advantage from the fact that the minor, having to plead personally might not establish his claim as clearly and strongly as a legal practitioner could. It may, however, be urged that the simple and direct methods of union courts would practically put the two parties on an equality; but at any rate if the defendant had reasonable cause for thinking that the union court was unfairly biased against him, he could apply under section 74 for the transfer of the suit. The plaintiff also would have the option of filing his suit either in the munsiff's or the union court; but to a boy who, for instance is denied the wages due to him it is little more than mockery to say that he can go before the munsiff. The fact is that the doors of the ordinary civil court are closed to him. He should therefore be given an opportunity to obtain redress from the union court.

7. Provision should be made to the effect that, when the Village Self-Government Act is extended to any part of a district : —

(i) The electorate for the district board should consist of the elected members of union boards and, for unions where union boards do not exist, the members of chaukidari pan-chayats should form the electorate.

(ii) The district should be divided into circles and the district board should be required by law to appoint for each circle a standing

committee to dispose of all matters relating to unions in which union boards do not exist. The standing committees should be subject to the control of the district board to which all their proceedings should be reported ; but the district board should not interfere with the orders of a standing committee in matters of detail except when a question of principle is involved. The members of a circle standing committee should comprise the members of the district board elected from that circle and such other persons, not more than two in number, as the district board, on the recommendation of the standing committee or otherwise, may appoint. Such persons should be appointed additional members as have knowledge of and interest in the circle and as are likely to devote personal and practical attention to its administration. Every standing committee should elect its own chairman.

(iii) It should be the duty of the circle officer to see that effect is given to orders passed by the standing committee. He should keep in close touch with the chairman and attend all meetings in order to furnish the committee with reports and information. He should not be a member of the committee, but it should be permissible for the members to elect him as their secretary.

(iv) Local boards should be abolished.

Proposals (i) to (iv) are based on the Local Self-Government Bill of 1883, but some modifications have been made. The Bill provided that local boards, besides exercising a general control over the union committees which would administer affairs of local interest to the

villagers, would also manage works and institutions of more general importance. If that Bill had become law there would have been no district boards in Bengal and the powers which district boards now exercise would have been exercised by local boards, as is actually done in Assam. Subsequent experience has proved that district boards are a necessity because boards administering areas smaller than a district have not sufficient resources to enable them to employ the requisite staff of superior officers, such as district engineers and district health officers. It must at all events be assumed that district boards will be retained. But in the system of Local Self-Government there is no room for both district boards and local boards to exist together. For the control of union boards they are superfluous and makes the chain of administration too long and, quite naturally, they take little interest in the petty duties made over to them; for district boards prefer to retain in their own hands the management of all important works and institutions. It is generally admitted (c) that members of local boards seldom have any knowledge of or interest in their duties and that local boards in Bengal have proved a complete failure as executive bodies. As supervising authorities their failure has been even more conspicuous; in fact it was so glaring that from 1908 they ceased to exercise any powers over union committees. Under the present Act their former powers have been restored but, as no substantial change of the electorate has been made, there is no reason to expect that local boards will be more efficient in the future than in the past.

The suggestion now made is that a district having been divided into circles, local boards should be abolished and authority over the union boards in a circle should be exercised by a committee composed of the district board members, elected from that circle and should be called the circle-standing committee. In regard to the control of the union boards and the management of local affairs in the non-union board areas of the circle, the circle standing committee should exercise the same powers as the district board, but subject in important matters and matters of principle to the control of the district board at a meeting. It is further suggested that provision should be made to allow not more than two additional members to be co-opted to the circle standing committee and that the circle officer, though not a member, should be its chief executive officer and attend its meetings. Thus constituted and thus empowered a circle standing committee would seem to be ideally qualified to administer

the local affairs of a circle with knowledge and ability and to exercise a judicious authority over the union boards.

To improve the composition of district boards, which at present is far from satisfactory, it is suggested that the electorate should be formed of members of union boards and panchayats, that is to say of the persons chosen by the general body of village rate-payers to represent them. The advantage for this suggestion is that it would produce a body of electors who from practical experience would know the kind of man required to administer district affairs and would realise the effects of incapacity or want of interest on the part of members of the district board. If local boards are abolished, as already suggested, the power they now exercise of electing members of the district board should naturally be transferred to union boards. There is no advantage to be gained by adoption of a system of direct election to the district board by the rate-payers; for there is no reason to expect better result (d) than those hitherto obtained from direct election to local boards by the rate-payers. Where union boards do not exist, it is proposed that the electorate should be the panchayat because it is the representative body of the rate-payers and is expected to develop ultimately into a union board. This proposal will have the effect of raising the status of member of the panchayat, stimulating interest in local affairs and hastening the time when the union can be granted the privilege of having a union board.

(d) "Local boards are composed largely of members who have neither knowledge nor interest in village works" (para. 101 District Administration Committee's Report).

THE
Bengal Village Self-Government Act

PART I.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal
Short title, local extent Village Self-Government Act,
and commencement. 1919.

(2) It extends to the whole of Bengal, except
the town of Calcutta and any area which has been or
may hereafter be constituted a municipality, under the
provisions of the Bengal Municipal
Ben. Act III of 1884. Act, 1884.

(3) It shall come into force in such districts or
such parts of districts and on such dates as the Local
Government may, by notification, direct, and the
Local Government may, by notification, withdraw
this Act from any district or part of a district.

Explanation.—The words "the town of Calcutta"
mean, subject to the exclusion or inclusion of any local
area by notification under section 637 of the Calcutta
Ben. Act III of 1899. Municipal Act, 1899, and subject
to the provisions of section 147
of the Calcutta Improvement Act, 1911, the area
Ben. Act V of 1911. described in schedule I to the
Calcutta Municipal Act, 1899:

Provided that this Act shall not come into force in

any cantonment without the sanction of the Governor General in Council previously obtained.

- Note.* 1. This Act gives to the village dignitaries (*i.e.* the union board) great powers, which will, if properly understood, and rightly used bring incalculable benefits to the inhabitants. But it must be remembered that these powers if placed in the hands of men unable to understand them or prone to misuse them for personal gain or the annoyance of others, will be productive of great mischief. As the district magistrate does not select the majority of the members of the union board and even the election of the president does not require his approval, the burden of selecting proper persons to fill these positions falls on the electors. The necessity for great caution in extending this Act to fresh unions is therefore obvious. It would not be sound policy to extend the Act simultaneously to any large compact area, such as a subdivision or even a thana. Such a course would be contrary to the principle that before the Act is extended to any fresh union, a substantial number of the inhabitants must be educated up to it. Usually it will be found advisable to extend the Act only to unions where the president panchayat system has, for some time, been working successfully and to make the extension only in response to local demand. Nothing is to be gained and much harm will be done by extension of the Act prematurely to areas not yet ripe for such an advanced measure.
2. It is not necessary to consult the district board or local board before extending this Act to any local area; but for the success of the Act it is extremely important that it should not be extended to any local area except in accordance with the views of the residents of that area.

2. (1) When any local area is declared to be a union under section 5, the enactments specified in schedule I shall, from the date of election or appointment of the first president of the union board of that union, be repealed or amended to the extent and in the manner mentioned in the fourth column thereof

Repeal and amendment of certain enactments; saving of certain provisions.

Provided that until a new assessment is made under this Act, any assessment, rate or tax which was in force in such area under the provisions of the Bengal Local Self-Government Act of 1885 in so far as they relate to union committees, and of the Village-chaukidari Act, 1870, shall continue to be

Ben. Act III of 1885.

Ben. Act VI of 1870.

in force and all sums due on account of such rate or tax shall be realized under the provisions of this Act, and shall be credited to the union fund, and may be expended by the union board by which they are realized.

(2) When, in consequence of the repeal of an enactments referred to in sub-section (1), any panchayat or union committee ceases to exist, all the properties, funds and dues which are vested in such panchayat or union committee shall be vested in such union board or boards, and in accordance with such allocation, as may be determined by the district magistrate, whose orders thereon shall be final.

Notes. 1. The provisions of sub-section (1) prevent an inter-regnum in the administration and secure the payment of the salaries of chaukidars and other dues from the date when a local area is notified as a union under section 5. The panchayat and the union committee (if there is one) remain in power until the first president of the union board is elected. Assessments made by the panchayat and the union committee also remain in force until superseded by resolutions under section 37. Such resolutions may either confirm or modify assessments made by the panchayat or union committee.

2. When the first president of a union board has been elected, the president panchayat should make over to him all papers and registers pertaining to the panchayat and a statement showing (i) assessments made for current year, (ii) receipts and expenditure of the current year, including opening balance (iii) list of assesseees showing all arrears due from each for the current and preceding years. The cash balance of the panchayat should also be made over to the union board. If the union board also supersedes a union committee, a similar account together with all the papers, pass-book and cash balance of the union committee should be made over by the chairman of the union committee to the president of the union board. The president should give formal receipts for all papers, registers, money &c. received from the panchayat or union committee.

3. When the provisions of this Act are withdrawn from any district or part of a district under section 1, sub-section (3), the enactments specified in schedule I shall be

Effect on certain enactments when Act is withdrawn.

deemed to be revived in such district or part to the extent to which they were modified by that schedule.

4 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

from the date of the publication of the notification of withdrawal :

Provided that all assessments for the imposition of rates under section 37 shall continue to be in force until a new assessment is made in accordance with the provisions of the Village-chaukidari Act, 1870: and all properties, funds and other dues vested in any union board within such district or part of a district shall be vested in such local authorities, panchayats or persons and in such manner, as may be determined by the district magistrate, whose orders thereon shall be final.

Note. It is to be hoped that it may never be necessary to put the provisions of this section into force. If proper care is taken not to introduce the Act prematurely into any union, there is no reason why this hope should not be fulfilled.

4. In this Act, unless there is anything repugnant, in the subject or context,—

Definitions.

- (1) "building" includes a hut and shed ;
- (2) "circle officer" means any person who may be appointed by the Local Government to exercise the powers and perform the duties of a circle officer under this Act ;
- (3) "dafadar" means a head chaukidar ;
- (4) "district board" means a district board established under the Bengal Local Self-Government Act of 1885 ;
- (5) "district magistrate" includes an additional district magistrate ;
- (6) "local board" means a local board established under the Bengal Local Self-Government Act of 1885, as amended by this Act ;

Ben. Act III of 1885.

- (7) "notification" means a notification published in the *Calcutta Gazette* ;
- (8) "road" means any road, street or passage, whether a thoroughfare or not, over which the public have a right of way ;
- (9) "subdivisional magistrate" means any magistrate in charge of a subdivision of a district ;
- (10) "year" means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any union board by the Local Government by notification ; and
- (11) the expressions "non-bailable offence," "cognizable offence," "complaint," "offence," "officer in charge of a police-station" and "police-station" have the same meaning as in section 4 of the Code of Criminal Procedure, 1898, and the expressions "decree," "legal representative" and "movable property" have the same meaning as in section 2 of the Code of Civil Procedure, 1908.

Act V of 1898.

Act V of 1908.

Notes. Clause (2). Circle officers were appointed experimentally on the recommendation of the District Administration Committee. 1913-14. The experiment has been a success and under the present Act legal recognition is given to their status. Under section 5, the circle officer is bound to see that the proceedings of union boards are in conformity with law and rules thereunder. Under section 47 the District Magistrate may empower the circle officer to appoint or to punish chaukidars or *dadars*. Various other powers and duties may be imposed on the circle officer by Government rules under Section 101. His main functions, especially at first, will be to prepare unions for the introduction of this Act, to guide union boards in their work and to advise them how to deal with difficulties. He will be indispensable as a link connecting the district board, the *thana* police and the district magistrate with the union boards ; for this reason the Government, the district magistrate, the district board or the local board may, under Section 51 to 53, authorise the circle officer to inspect union boards.

It is an important part of the duties of a circle officer to bring together in friendly intercourse the *thana* police officers and the members of the union board and to promote co-operation between them.

6 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Clause (3).—Dafadars were first appointed in 1894 and since then they have been working in all districts and subdivisions where the president panchayat system is in force. Under sub-section (2) of section 23 they will exercise all the powers conferred on a chaukidar. Their duties will be mainly supervision of chaukidars and they will be a link between the thana officer, the union board and the chaukidars.

Clause (8).—The word “road” has been held to include a low ridge between paddy fields which the public had a right of using (i.e. a permanent all) cf. 1 L. R. 17 Cal. 684.

Clause (10).—Experience with union committees has shown that a year beginning on the 1st Sraban (15th July) will be the most convenient for union boards. Practically all the outdoor work of the union board must necessarily be done during the dry season. With a year ending with Ashar the season's work can be completed conveniently and all accounts adjusted without hurry within the year. For Chaukidari purposes also no other year would be so suitable. It may be regarded as certain that at the beginning of the year the union fund will be almost exhausted and for some months very little money will come in.

During Baisakh, Jaistha and Ashar rayats require for cultivation and living expenses, all the money they have; they pay their assessments when they sell their jute or paddy. If the year ends with Ashar, the salaries of chaukidars for those months can be paid from the assessments realised during the preceding 9 months; but if the year ends any other date, it will often occur that there are no funds from which to pay the chaukidars.

Clause (11). The following are the definitions referred to, viz:—

“Offence” means any act or omission made punishable by any law for the time being in force; it also includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871.

“Cognizable offence” means an offence for which a police officer may in accordance with the second schedule (of the Code of Criminal Procedure), or under any law for the time being in force, arrest without warrant.

Note. The expression “Cognizable offence” is used in this Act only in clause (ii) (a) of section 23.

“Bailable offence” means an offence as bailable in the second schedule (of the Code of Criminal Procedure), or which is made bailable by any other law for the time being in force; and “non-bailable offence” means any other offence.

Note. Under Schedule I—Criminal Procedure Code, offences under any law other than the Indian Penal Code are bailable if punishable with fine only or with imprisonment for less than 3 years. The

expression "non-bailable offence" is used in sections 12 and 16 of this Act.

"Police station" means any post or place declared, generally or specially, by the Local Government to be a police station and includes any local area specified by the Local Government in this behalf.

"Officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present.

"Complaint" means the allegation made orally or in writing to a magistrate, with a view to his taking action under the Criminal Procedure Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police officer.

Note—The expression "Complaint" is used in this Act only in clause (a) of Section 66.

"Decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit.....It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144 of the Criminal Procedure Code, but shall not include—(a) any adjudication from which an appeal lies as an appeal from an order, or (b) any order of dismissal for default.

An order under section 78 of the village Self-Government Act is a decree within this definition, but an order under section 79 is not.

"Legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or being sued.

"Movable property" includes growing crops.

Note.—Under sections 41 and 99 all arrears of union rate and all fines, fees etc. due to union benches or courts may be recovered by the district and sale of the growing crops and other movable property of the defaulter. The president would however be expected to do as little harm as possible to the defaulter and would not sell his growing crops if the amount due could be realised otherwise).

CHAPTER II.

UNION BOARDS.

5. When this Act has come into force in any district or part of a district, the Local Government may, after consideration of the views of the district board and the local boards, by notification, divide that district or part into as many local areas as may to them seem expedient, and may, by notification, declare every such local area to be a union for the purposes of this Act.

Power of Local Government to declare areas to be unions.

Note. 1. This section is to be read with clause (3) of section 1. The Govt., after notifying that the Act is in force in any area, may divide that area into unions. It does not seem have been the intention of the legislature that a portion of the area shall be divided into unions and the remainder left undivided. The district board and the local boards are to be consulted as to the method of division; but Govt. is not required to consult them as to whether the Act should come into force. On this point it is desirable that the views of the residents of the area should be chiefly considered (cf. note 2 to section 1.)

6. (1) The Local Government shall, by notification, establish a union board for every union constituted under section 5, and shall fix the number of members of each union board:

Establishment and constitution of union board.

Provided that the number of members of a union board shall not be less than six or more than nine.

(2) The members shall be elected within such time and in such manner as may be prescribed by rules under section 101.

(3) Notwithstanding anything contained in subsection (2), the Local Government may direct, by an

order in writing, for reasons to be stated in such order, that not more than one-third of the total number of members of the union board shall be appointed by the district magistrate :

Provided that no member shall be so appointed unless he is entitled to be elected as a member of the union board under section 7.

(4) If on the date fixed for the election, the electors of any union fail to elect any member or members the vacancy or vacancies shall be filled by another election or by appointment by the district magistrate; and any person so appointed shall be deemed to be a duly elected member.

The best way of conducting union board elections is the simple, indigenous method of "selection by acclamation." This has been described by Sir Herbert Risley in the following words:—"The people get together and they talk, and eventually an opinion emerges from their talk which is the opinion of all of them. There is no majority, for they are unanimous; there is no minority, for the minority has been won over and casts in its lot with the majority. This process is the oldest mode of election in the world."

The officer conducting the election should explain to the electors the objects and powers of the union board and invite them to choose the men in whom they have most confidence. It is particularly important that village *máthars* should be members of the union board. Without them the board would inevitably be a sham or a failure. With them the legal authority of the union board would be enormously enhanced by the prestige and influence attaching to the *máthars*. It will matter little if the *máthars* cannot read or write, provided that some of the other members of the union board are literate.

2. It is generally advisable to divide a union into wards; where this has not been done the officer conducting the election must take care that all parts of the union are represented on the union board.
3. In some unions it will not be possible to carry out all the elections by the old indigenous method of selection. Even in such unions, however, it will usually be found that party feelings only exist in a bitter form in one or two wards. In those wards formal elections must be held and votes recorded. In the remaining wards the simple indigenous method of selection should be followed.

The election rules made by Government will be found on pp.

7. (1) Every male person of the full age of twenty-one years and having a place of residence within the union,—
Qualifications of voters and members of union board,

(i) Who, during the year immediately preceding the election, has paid a sum of not less than one rupee as cess under the Cess Act, 1880, in respect of lands situated wholly or in part in such union, or

(ii) who, during the year immediately preceding such election, has been assessed at and paid a sum of not less than one rupee for the purposes of the union rate payable under this Act, or in the case of a first election under this Act, chaukidari-tax, or

(iii) who is a member of a joint undivided family, which, during the year immediately preceding the election, has paid a sum of not less than one rupee as such cess, rate or tax,

shall be entitled to vote at an election of members of the union board :

Provided that only one member of a joint undivided family qualified under clause (iii) and nominated by the other qualified members of that family shall be entitled to vote on its behalf at any such election.

(2) Every person who is entitled to vote at an election of members of the union board and is resident within the union, shall be entitled to be a member of the union board if duly elected thereto.

Explanation.—A person shall be deemed to be “resident” within a union within the meaning of sub-section (2) if he ordinarily resides within its limits. No person may be so resident within the limits of more than one union at the same time.

Notes. 1. The term "joint undivided family" has not been defined in the Act, and its interpretation may give rise to trouble. It is however clear that the legislature intended to give one vote to each adult male who is assessed separately at one rupee or more and one vote to each joint family which is jointly assessed at one rupee or more.

2. In the case of a jointly assessed family the vote is to be exercised by one adult male member nominated by the other adult male members of the family.
3. If the provisions of this section were interpreted as requiring a formal and express nomination for the purposes of the election they would be entirely contrary to the usages of this country. For instance, if a man is living in joint mess with his adult sons, it is inconceivable that he would go to them and ask them to nominate him to represent the family. The legislature can certainly not have intended insidiously to lower the status and dignity naturally pertaining to the head of every Indian family. There is however no reason why the section should be thus interpreted. No provision is made that the nomination must be formal or in writing. An implied nomination can and should be regarded as sufficient. The *Karta*, or the male member of the family who conducts its ordinary business affairs should *Prima facie* be presumed to have been nominated to represent the family in union board elections as in all other affairs. This presumption may be rebutted by any qualified member of the family lodging an objection.
4. As only one member of a jointly assessed family can have a vote, only he can be elected to the union board or to the local board.
5. Ownership of a place residence entails liability to assessment (cf. sec. 37) and, in accordance with the principle that taxation involves representation, the Act grants a vote to any person having a place of residence within the union, even if he seldom or never visits it. For membership of the union board, however, the Act provides that habitual residence within the union is a necessary qualification. This is essential because only persons who actually reside within the union can manage the affairs of the union board efficiently.
6. Under sub-section (2) it is provided that a person may not be elected to a union board unless he "ordinarily resides" within its limits. By way of explanation it is added that a person shall not be deemed to be resident within more than one union at the same time. Presumably, if he lives for part of the year within the union and for the remainder of the year in another, and is a candidate for election to both of the union boards, he should be called upon before the elections are held to withdraw his candidature in one of the unions.

Some doubtful cases will arise. For instance, a man who spends most of his time engaged in professional business within a municipality but goes home to his village once a week, may claim to be consi-

dered a "resident" within the union in which the village is included. It is practically impossible to lay down hard and fast rules to cover every possible case. Each must be judged on its merits, on the general principle that a man otherwise qualified who spends sufficient time in his village to be able to take a practical part in the administration of its common affairs, may be elected as a member of the union board.

7. See also rules on p.....

8. (1) Every union board shall be presided over by a president, who shall be elected by the members of the union board from among their own number.

(2) If any union board fails to elect a president within the period prescribed by rules under section 101, the district board shall appoint a member of the board to be the president.

Note. The election of a president should be the first business of a newly by constituted union board.

9. Every union board may elect one of its members to be the vice-president of the board.

Note. A vice-president will not always be necessary and it is advisable to avoid having one until the necessity arises. If the president is able to do all the work, the best results are attained if the credit and the responsibility remain entirely with him. But if the president finds that he cannot spare sufficient time to do all the work, a vice-president may be elected to assist him; and when a president takes leave of absence, a vice-president must be elected to carry on his duties. Except in those events it is better not to have a Vice-President. (cf. Section 14).

10. Notwithstanding anything contained in this Act, no person who is not a British subject or a subjects of any State in India shall be qualified to vote at an election of, or to be a candidate for election as a member of, a union board, nor shall such person be nominated to be a member of such board.

Provided that the Local Government may, by notification, exempt from the provisions of this section any person or class of persons who are not British subjects or subjects of any State in India.

11. The term of office of a member of a union board shall be three years from the date on which the district magistrate shall declare the board to be duly constituted, but shall include any period which may elapse between the expiration of the said three years and the date of the first meeting, at which a quorum is present, of the newly elected and appointed members after the next general election for the union board.

Note. A union board is constituted when all the members have been elected or appointed under section 6.

12. (1) The district board may remove any member of a union board from his office—

- (a) who is convicted of any non-bailable offence ; or
- (b) who refuses to act, or becomes incapable of acting, or is declared to be insolvent ; or
- (c) who has been declared by notification to be disqualified for employment in the public service ; or
- (d) who, without an excuse sufficient in the opinion of the district board, absents himself from six consecutive meetings of the union board ; or
- (e) who has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, if two-thirds of the total number of the members of the union board at a meeting recommend his removal.

14. THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

(2) No person who has been removed from his office under clause (a) or clause (c) of sub-section (1) shall be eligible for re-election or re-appointment.

Note. (1) There is no bar to a person who has been criminally convicted or dismissed from Government service being elected to a union board; but it is unlikely that the electors will select such a man for a post of honour and responsibility. If a member of a union board is removed under sub-section (b) (d) or (c) it is open to him to stand for re-election. The electors must decide whether they consider him fit to represent them.

(3) See also notes 1 and 2 under section 16.

13. When the place of an elected or appointed member of a union board becomes vacant by his removal, resignation or death, a new member shall be elected or appointed in the manner prescribed by rules under section 101, and shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act of the union board, or of its officers, shall be deemed to be invalid by reason only that the number of members of the board at the time of the performance of such act was less than the prescribed number.

Note. For election rules see pp.

14. The term of office of a president or vice-president of a union board shall be the residue of his term of office as a member of the union board.

Term of office of president or vice-president.

Note. A vice president or president cannot be elected for a less period than the remainder of his term of office a member.

15. (1) A president of a union board may resign during his term of office by notifying in writing his intention to do so to the chairman of the district board and to the union board; and on such

Resignation of president, vice-president or member.

resignation being accepted by the chairman, shall be deemed to have vacated his office.

(2) A vice-president or a member of a union board may resign during his term of office by notifying in writing his intention to do so to the union board, and on such resignation being accepted by the union board shall be deemed to have vacated his office.

Note. The chairman of the district board should not accept a resignation automatically but should consider after enquiry whether the resignation should be accepted or the president should be asked to withdraw it. Enquiries as to the circumstances which have led to a president's resignation will ordinarily be made through the circle officer.

16. (1) The district board may remove a president of a union board from his office—
Removal of president of a union board from his office—
or vice-president.

- (i) if he is convicted of any non-bailable offence;
or
- (ii) if he refuses to act, or becomes incapable of acting, or is declared insolvent; or
- (iii) if he is guilty of misconduct or persistent negligence in the discharge of his duties as president of the union board or of any disgraceful conduct, and two-thirds of the total number of the members of the union board at a meeting recommend his removal.

(2) A union board may, on the recommendation of two-thirds of the total number of the members of the board at a meeting, remove its vice-president from his office—

- (i) if he is convicted of any non-bailable offence;
or
- (ii) if he refuses to act, or becomes incapable of acting, or is declared insolvent; or
- (iii) If he is guilty of misconduct or persistent negligence in the discharge of his duties

16 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

as vice-president, or of any disgraceful conduct.

Note :—1. For the definition of non-bailable offence, see note under section 4 (11).

*Note 2 :—*For the removal of a president under clause (1) (iii) or of a vice-president under clause 2 (iii), not less than two-thirds of the total number of members of the union board must, at a meeting, declare that, by reason of his neglect or mismanagement of the union board's affairs, or by reason of disgraceful conduct he should be removed from office. For instance, if a union is constituted with 9 members, not less than 6 must vote for his removal. If however, the board is constituted with 6, 7, or 8 members, a higher proportion of votes will, in effect, be required for his removal and as the president or vice-president himself will be a member, the other members must in such cases be practically unanimous in order to have him removed.

16. If a president or vice-president is removed from office under section 16, it will be desirable that the district board should also, under the provisions of section 12, remove him from membership of the union board.

17. (1) If a president of a union board dies, resigns or is removed, the union board shall, at a meeting, within a period prescribed by rules under section 101, elect from among its members a new president.

Filling of casual vacancy in office of president or vice-president.

(2) If any union board fails to elect a new president within the prescribed period, the district board shall appoint a new president.

(3) If a vice-president of a union board dies, resigns or is removed, the union board may, at a meeting, elect from among its members a new vice-president.

Note. If a casual vacancy occurs in the office of vice-president, it is not always necessary or desirable that it should be filled immediately (cf. note under section 9.)

18. Every union board shall be a body corporate, by the name of "the union board of (name of union)", and shall have perpetual succession and a common seal, and shall by the said name, sue and be sued, with power to acquire or hold property, both

Incorporation of union boards.

movable and immovable, and, subject to any rules made under section 101, to transfer any such property held by the board and to contract and do all other things necessary for the purposes of this Act.

*Note 1 :—*When making a contract a union board should affix its common seal ; but if this cannot be done without great inconvenience, the omission will not invalidate the contract.

2. A union board has power to make contracts only for the purposes of this Act. If a contract is made for a purpose not within the scope of the Act, it will, even though duly executed, not be binding on the union board.
3. A union board, being a corporate body created by the legislature for particular purposes, is not responsible as a corporate body for acts not within the competency of the corporate body to perform. If any such act is done, the union board, as a corporate body, is not responsible, but the individuals who take part in the pretended corporate act are responsible.

19. Every road, building or other work constructed by a union board from the union fund shall be vested in the union board by which it has been constructed. ●

Note :—(1) If a road, building or other work is made over to the control and management of a union board, it is not thereby vested in the union board, unless an express agreement to that effect is made.

(2) The words "other work" of course include bridges, tanks, wells, etc.

CHAPTER III.

DAFADARS AND CHAUKIDARS.

20. (1) The union board shall, when a vacancy exists, nominate a person to be a dafadar or a chaukidar under this Act, and the district magistrate shall, if satisfied with such nomination, appoint such nominee :

Appointment and dismissal of dafadars and chaukidars.

Provided that, if the union board fails within a reasonable time to nominate a person to be a dafadar or a chaukidar, or, if the district magistrate is not satisfied with such nomination, the district magistrate shall appoint any person, whom he thinks fit, to be a dafadar or a chaukidar.

(2) The district magistrate, or the union board, with the sanction of the district magistrate, may dismiss any dafadar or chaukidar.

*Note. Sub-section 1 :—*Rules regarding nominations, appointments and dismissals have been made by Government and will be found on pp.

The District Magistrate may delegate his powers of appointment and dismissal of Dafadars and Chaukidars to the Sub-divisional Magistrate, Superintendent of Police or Circle Officer (Cf. schedule III).

*Sub-section 2 :—*If a chaukidar or dafadar is found to be useless or persistently contumacious and incorrigible, the union board should submit, through the circle officer, a recommendation for his dismissal.

21. (1) The number of dafadars and chaukidars to be employed in a union, the salary to be paid to them and the nature and cost of their equipment shall be determined from time to time by the district magistrate after consideration of the views of the union board.

Numbers and salaries of dafadars and chaukidars.

(2) The salaries and the cost of equipment of dafadars and chaukidars shall be paid by the union board, and the dafadars and chaukidars shall receive their salaries and equipment at such times and in such manner as may be prescribed by rules under section 101.

Note. *Sub-section (1)*—It will probably be necessary to make all dafadars and some, if not all chaukidars whole time officers. The salary of such men will have to be raised considerably above Rs. 6/-, which was the maximum prescribed under the Chaukidari Act of 1870. Under that Act only part time officers were contemplated.

Sub-section (2).—Dafadars and chaukidars and any other officers or servants employed by the union board should be paid their salaries monthly, and not later than the 15th of the following month. If payment is deferred, the chaukidar has to run into debt, which is not only unfair to him but is bound to have a bad effect on his work.

In case a union board fails to pay punctually the salaries and cost of equipment of its dafadars and chaukidars, the district magistrate may take action under sec. 54.

The rules made by Government regarding the payment of dafadars and chaukidars and the cost of their equipment will be found on pp.

22. Any dafadar or chaukidar who is guilty of any wilful misconduct in his office, or neglect of his duty, such misconduct or neglect not being of so grave a character as in the opinion of the district magistrate or the union board, as the case may be, to require his dismissal, shall be liable to be punished by the district magistrate with fine not exceeding the amount of one month's salary or by the union board with fine not exceeding one quarter of a month's salary.

Note. (1). The district magistrate may delegate his powers of fining to the sub-divisional magistrate, the superintendent of police or the circle officer (cf. schedule III and note under section 47).

(2) The rules made by Government regard to fining will be found on pp.

(3) If an inadequate fine is imposed by a union board, the District Magistrate may impose an additional fine, but the total of the original and the additional fine must not exceed one month's salary.

23. (1) Every chaukidar shall exercise the following powers and perform the following duties :—
- Powers and duties of
dafadars and chaukidars.

(i) he shall give immediate information to the officer in charge of the police-station within the limits of which the union is situated and to the president of the union board, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in schedule II which may be committed within the union, and he shall keep the police and the president of the union board informed of all disputes which are likely to lead to a riot or serious affray ;

(ii) he may, without an order from a magistrate and without a warrant, arrest—

(a) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned ;

(b) any person having in his possession, without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

(c) any person who has been proclaimed as an offender either under the Code of Criminal Procedure, 1898, or by order of the Local Government ;

Act V of 1898.

(d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing ;

(e) any person who obstructs a police-officer while in the execution of his duty, or who has

escaped, or attempts to escape, from lawful custody;

(f) any person reasonably suspected of being a deserter from His Majesty's Army or Navy or of belonging to His Majesty's Indian Marine Service and being illegally absent from that service; and

(g) any released convict committing a breach of any rule made under section 565, Act V of 1898. sub-section (3), of the Code of Criminal Procedure, 1898;

(iii) he shall, to the best of his ability, prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in schedule II;

(iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer in charge of the aforesaid police-station;

(v) he shall observe, and, from time to time, report to the said officer the movements of all bad characters within the union;

(vi) he shall report to the said officer the arrival of suspicious characters in the neighbourhood;

(vii) he shall report in such manner as may be prescribed by the district magistrate the births and deaths which have occurred within the union;

(viii) he shall supply any local information which the district magistrate or any police-officer may require;

(ix) he shall obey the orders of the union board in regard to keeping watch within the union and in regard to other matters connected with his duties as chaukidar;

(x) he shall give immediate information to the union board of any offence under sub-section (4) of section 30 and of any encroachment on, or obstruction

22 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

to, any road or water-way within the union and of any damage to any property under the control of the union board ;

(xi) he shall assist the person collecting the union rate in making such collection ;

(xii) he shall serve such process upon persons resident within the union as may be prescribed by rules under section 101 ; and

(xiii) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rules made hereunder.

(2) Every *dafadar* shall exercise all the powers conferred on a *chaukidar* under sub-section (1) and shall perform such duties as may be imposed upon him by rules made under section 101.

*Note. Clause (1).—*The *chaukidar* is bound to give information both to the police and to the president. If by going first to the president he will be delayed in going to the police, he should send information to the president through another *chaukidar* and himself proceed to the *thana*. He is responsible that immediate information is given to both.

The following Government Order is reproduced from Volume V of the Police Regulations Bengal :—

311. (a) All *dafadars* and *chaukidars* shall give immediate intimation by telegram to the nearest police-station about the likelihood of riots, the intention to commit heinous crime, the presence of suspicious characters, the occurrence of serious crimes, such as murder, dacoity, rioting with murder, robbery, drugging and the like, and all other cases in which they consider that immediate intimation should be conveyed to the police. They shall also use the telegraph freely for the purpose of preventing the escape of absconders.
- (b) The object of sending telegrams is threefold. In the first place, on receipt of a telegram, the investigating officer will reach the place of occurrence with the least possible delay, and will thus have the opportunity of preventing riots and heinous offences; in the second, he will be able to apprehend suspicious characters; in the third, if the offenders are known to be absconding, and the *dafadar* or *chaukidar* can form a conclusion as to the direction in which they have gone, a telegram sent to a police officer at a police-station, railway station or ghat, giving a description of the man

wanted and the offence with which he is charged, may not infrequently be successful in securing his apprehension. Where necessary, telegraphic information can also be sent to a neighbouring dafadar or chaukidar, if, by so doing, it is thought probable that the arrest of an absconder might be effected.

- (c) It may be desirable to send more than one telegram in certain cases, for instance, if a murder has occurred and the murderer is absconding by rail, the dafadar or chaukidar should send a telegram not only to the officer in charge of the police-station within which the crime has been committed but should also telegraph to the police of the place to which he thinks that the offender may be going, so that he may, if possible, be intercepted. If the dafadar or chaukidar is not sure whether there is a police-station at the place to which the absconder is believed to be going he should telegraph to the Superintendent of Police of the district, or to the Superintendent of the railway police. Telegrams to Superintendents of the district police should be addressed to "S. Police" with the name of the headquarters added.
- (d) Dafadars and chaukidars are permitted to make use of Government and Railway telegraphs without prepayment for all messages in connection with the detection and prevention of crime which they may deem to send. These messages are of two kinds, viz., (1) ordinary telegrams, (2) special police telegrams. Special police telegrams shall be sent only in cases of real emergency, but when it is necessary to send a telegram during the hours when a telegraph office is closed, a special police message shall invariably be sent. In such a case, the dafadar or chaukidar shall get his message marked "special police," and the telegraph official is bound to accept it at any hour of the day or night. All telegrams shall be marked "State," and when an express message is sent, the words "special police" shall be endorsed upon it.
- (e) Telegrams shall be worded as briefly as possible, and, except in cases where an absconder is to be arrested, shall usually not contain details of name of parties, etc.
- (f) Officers in charge of Government and Railway telegraph offices have been directed to write out on telegraph forms in English any information which a dafadar or chaukidar desires to send by telegram.
- (g) Dafadars and chaukidars sending messages about the prevention or detection of crime shall give their name, designation and address in the body of the telegram. In the space allotted for "signature" (and which will not be signalled), they shall also give their name, designation and addresses in full, including the name of the police-station and district. A dafadar or chaukidar shall also in all cases affix his left thumb impression to the message. If he is illiterate, he shall see that the above details are entered on his behalf by the writer of the telegram.

24 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

- (h) When proceeding to send a telegram, dafadars or chaukidars shall wear their uniform, or shall come with their appointment letter, which they shall show to enable the post and telegraph master to identify them.
- (i) Dafadars and chaukidars are enjoined to use the telegraph freely in connection with the prevention and detection of crime, but they shall remember that the use of the telegraph must be confined strictly to that object, and that the privilege of using the telegraph free of charge does not extend to other subjects.
- j) Rewards shall be freely paid to dafadars and chaukidars who send telegrams freely.

Clause (ii) (a).—For the definition of “cognizable offence” see note under clause (II) of section 4. The most common cognizable offences are...theft, house-breaking, rioting, unlawful assembly, grievous hurt, culpable homicide, mischief by fire, mischief by maiming or poisoning animals and counterfeiting of coin.

Clause (ii) (c).—Section 87 of the Criminal Procedure Code, 1898 provides that “(1) If any court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant can not be executed, such court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

- (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house.”

A.B.—A proclaimed offender may be arrested by a private person (Cf. section 59, Criminal Procedure Code) and handed over to chaukidar, who should then re-arrest him under the present clause, (ii) (c), and take him to the police-station. (Cf. sec. 24).

Clause (ii) (g).—Section 565 of the Criminal Procedure Code, 1898 provides that when a person is for a second time convicted of any offence punishable with imprisonment for 3 years or upwards under the chapters of the Indian Penal Code dealing with offences against property and offences relating to coin and Government stamps, the court, when passing sentence of imprisonment on such person, may order that on release he shall notify his residence and any change of residence for a term not exceeding 5 years from the date of the expiration of such sentence. In sub-section (3) it is further

provided that the Local Government may make rules to carry out the provisions of this section.

The rules made by the Government of Bengal are contained in Notification No. 313 J, dated the 14th January 1902. They provide that a released convict on whom an order under Section 565 C.P.C. has been passed must not change his place of residence without going to the police station and giving notice to the officer in-charge. If the released convict intends to move to another thana or another district, the notice must be given at least 7 days beforehand. If he is only moving to another place within the same thana, 2 days previous notice must be given. A released convict who has no fixed place of abode must always notify to the police the place of his temporary residence, that is, the place where he sleeps, even if he remains there only one night.

Clause (iv)—Under section 59, Criminal Procedure Code, a private person may arrest any person who in his view commits a non-bailable and cognizable offence (for definitions see note under clause 11 of section 4), or who has been proclaimed as an offender (see note under clause (ii) (g) above).

Clause (vii) It is desirable that the chaukidars reports of births and deaths should be reduced to writing and verified by the member of the union board who is headman over the chaukidar's beat. Special care should be taken to see that no births or deaths are omitted from the reports.

Clause (viii)—"Information" may be required at any time or periodically. Clause (vii) may therefore be considered as included in clause (viii).

Orders may be issued by district magistrates under this clause and section 26 (f) requiring union boards, defadars and chaukidars to report immediately when an outbreak of fatal disease occurs either among human beings or among cattle. Orders may also be issued requiring them to report when a village boundary mark or other survey mark is removed or damaged or disappears; so also they may be required to report regarding the area under jute and the condition of that or any other particular crop grown in the union.

Clause (x)—is most important. The chaukidar can and should be useful to the administration of the union in multifarious ways.

Sub-section (2)—See note to clause (3) of section 4.

Supplementary notes. (A)—In addition to the powers and duties mentioned in this Act, chaukidars also have powers and duties under other Acts. The most important are the follows:—

- (1) Within the village or villages of which he is chaukidar he is required to perform the same duties as are imposed on a village headman by section 45 of the Criminal Procedure Code. He also has special duties under the Criminal Tribes Act (See pp.....)

26 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

- (2) Chaukidars are empowered to seize and impound cattle doing damage or found straying on public roads and other public places. They are also bound, when required, to assist any private person if opposed when seizing or taking to the pound cattle found trespassing on land in his occupation and damaging the land or any crop (cf Sections 10 and 11, Cattle Trespass Act pp.)
- (B) For the proper performance of the duties imposed on them, it is advisable to assign to chaukidars separate beats, each comprising one or more entire revenue survey villages (or mouzas) or a specifically defined portion of such a village.
- (C) District magistrates may, by order under section 24 (1) (viii) require all dafadars and chaukidars to report promptly to the officer in charge of the police station and the president of the union board, the occurrence of large fires, storms or floods and the amount of damage done; any damage to roads, bridges, ferries, telegraph posts or wires; the outbreak of any pest or disease causing damage to crops; the existence of distress among any class of the population and any important matter likely to affect the maintenance of law and order or the safety and well being of the people.

24. Whenever a dafadar or chaukidar arrests any person under section 23, he shall forthwith take the person so arrested to the police-station within the limits of which the union is situated:

Procedure on arrest by dafadar or chaukidar.

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Note.— If an arrest is made during the day time, the persons arrested should not be taken to the president, as this would cause delay. But if an arrest is made at night the prisoner may be kept until morning in the president's house or any other convenient place. Information of the occurrence must, of course, be given to the president, under Clause (i) of Section 23, as soon as possible.

25. All fines realized from a dafadar or chaukidar under section 22 of this Act shall be credited to a district chaukidari reward fund, the control over which shall rest with the district magistrate.

Note.— Fines under Section 22 by the union board should be remitted to this circle officer (vide rule)

CHAPTER IV.

POWERS AND DUTIES OF UNION BOARDS.

Duties of union boards.

26. Every union board—

- (1) (a) shall take such action as is necessary to secure the due performance by the dafadars and chaukidars of the union of the duties imposed on them under this Act, and shall exercise a general control over them ;
- (b) shall provide, as far as possible, for the sanitation and conservancy of the union and for the prevention of public nuisances therein ;
- (c) shall make special arrangements for the sanitation and conservancy of fairs and melas held within the union ;
- (d) shall have control of all drains and other conservancy works within the union which are not under the control of any other authority ;
- (e) shall execute all works that are necessary for the preservation of public health and for improving the sanitation, conservancy or drainage of the union ;
- (f) shall supply any local information which the district magistrate or the district board or local board may require ; and
- (g) shall perform all such other acts as may be necessary to carry out the purposes of this Act ;
- (2) shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871 ;

1 of 1873.

(3) if required to do so by the district magistrate, shall provide for the registration of births and deaths within the union under the provisions of the Bengal Births and Deaths Registration Act, 1873;

(4) shall cause such processes as may be received by the union board for service to be duly served by a dafadar or chaukidar in accordance with rules under section 101; and

(5) may undertake and carry out any other local work of public utility likely to promote the health, comfort or convenience of the public, and not otherwise provided for in this Act.

Notes.—Sub-section (1) *Clause (a).* Members of a union board should do their utmost and use all their personal influence to preserve peace and prevent crime within the union. They should see that the chaukidars and dafadars placed under their control perform with due diligence the duties of prevention and arrest imposed on them by section 23. They should assign detailed duties of watch and ward to each chaukidar and of supervision to each dafadar. These details they should modify from time to time when experience shows that a change would be advisable. They should keep the thana police and the magistrate informed of all matters of importance and co-operate fully with the police for the prevention and detection of crime.

Sub-section (1)—*clauses 1 (b) to 1 (g) and sub-sections (2) to (5).*—It is important that the work of the union board should be managed with the utmost economy. The services of the chaukidars should be utilised in all kinds of work which the union board takes up.

Clause (c).—If it is necessary to charge fees to cover expenditure in connection with measures for the sanitation or conservancy of a mela or fair, the union board can move the district board to exercise its powers under sub-section (3) of section 100 of the Local Self Government Act of 1885.

Clause (d).—Under this clause the union board is vested with powers of control over private drains and other private conservancy works.

Clause (e).—Under this clause the union board may engage a resident union doctor (see note 2 under sec. 32).

Clause (f).—See note under clause (viii) of sec. 23.

Sub-section (2).—Probably the control and surplus proceeds of all pounds within the union will be made over to the union board. If so, it will be the duty of the union board to lease each pound to

a reliable person, to see that impounded cattle are properly fed and watered and that the pound-keeper commits no illegality. Consistently with these requirements the pound should be leased to the highest bidder. (See also notes under Cattle Trespass Act on pp....)

Sub-section (4)—Criminal and revenue processes, except such as involve arrest or the realisation of money, are now served through panchayats or union boards in districts or parts of districts where the circle system is in force and where adequate postal facilities exist.

Under the Court Fees Act the serving of processes is governed by rules of the High Court.

In unions where there is not a daily postal delivery at the president's house, he should move the postal authorities to improve the post office facilities. The circle officer and subdivisional magistrate should assist the union board in this matter. Pending the institution of a daily postal delivery, the president should arrange for a *dafadar* or *chaukidar* to bring the *dak* daily from the most convenient post office to his house.

Additional notes.—

A. District magistrates will probably ordinarily appoint every member of a union board to be a head man of the village in which he resides. The duties of a village headman are detailed on pages.....

As a convenient arrangement to divide the whole union between the members of the union board so that each member shall be headman of the mauza, (or revenue survey village) or part of the mauza in which he resides, and perhaps some adjacent mauzas, *Chaukidars'* beats should be so arranged that one or more beats correspond as nearly as possible with the area under the headship of one member of the union board.

Government may authorise district magistrates to empower presidents of union boards under section 64, 127 and 128 of the Code of Criminal Procedure to arrest persons committing offences in their presence, to order unlawful assemblies to disperse and to compel them to disperse by the use of civil force. They may also be authorised in cases of unnatural death, where there is no suspicion of suicide or foul play, to enquire into the circumstances and to permit the relatives to dispose of the body. All the powers aforesaid may also be extended to vice-presidents and, as regards powers under Secs. 64, 127 and 128 Criminal Procedure Code, to members of the union bench.

The powers of a District Magistrate under chapters I to III of the Cattle Trespass Act will probably be conferred on union boards. That is to say they will, within their respective union, be vested with power to establish pounds, to appoint pound-keepers and to determine fees for the feeding and watering of cattle and generally the executive management of pounds will be one of the duties of union boards (see notes under section..... of the Cattle Trespass Act). This will enable union boards to improve the management

of pounds while the transfer of the surplus proceeds of pounds will increase the income of the union fund.

- D. The district magistrate may direct, under sec. 14, Cattle Trespass Act, that if impounded cattle are not claimed within 7 days, the pound-keeper shall report the fact to the president of the union board, who shall thereupon affix in a conspicuous part of his office a notice stating. 5,960
- (a) the number and description of the cattle.
 - (b) the place where they were seized
 - (c) the place where they are impounded and shall cause proclamation of the same to be made by beat of drum in the village market place nearest to the place of seizure.
- If the cattle are not claimed within 7 days from the date of the notice, they shall be sold by public auction by the president or an officer of the union board deputed for that purpose.
- E. Under section 35 of the Bengal Ferries Act, as now amended, the Government will probably direct that certain ferries shall be managed by the union board of the union in which they are situated. This will enable the union board to improve the ferry service while the transfer of the surplus proceeds of the ferries and of fines under the Act will further increase the income of the union fund (see notes under sections.....of the Bengal Ferries Act).
- F. District magistrates may, by order under section 25 (1) (i), require all union board to report promptly the occurrence of any large fire, storm or flood and the amount of damage done, the existence of distress among any class of the population, the outbreak of any pest or disease causing damage to crops, the prevalence of crime and any other important matter likely to affect the safety and well-being of the people.

Powers of union board as to sanitation, conservancy and drainage

27. (1) If it appears necessary to improve the sanitary condition of the union or any part thereof—

(a) the union board may, or, under the orders of the district board, shall—

- (i) cause huts or privies to be removed either wholly or in part ;
- (ii) cause private drains to be constructed, altered or removed ;
- (iii) cause public drains to be constructed, altered or removed ;

(iv) cause—

any well, pool, ditch, tank, pit or pond, or any place containing or used for the collection of any drainage, filth or stagnant water.

which appears to be injurious to health or offensive to the neighbourhood or in any other respects a nuisance, to be filled up, cleansed or deepened or the water to be drained off or removed therefrom, or such other action to be taken therewith as may be deemed necessary ;

(v) cause any land, which by reason of thick vegetation, undergrowth or jungle appears to be in a state injurious to health or offensive to the neighbourhood or to form an impediment to efficient ventilation, to be cleared of such vegetation, undergrowth or jungle ;

(vi) cause burning-ghats and burial grounds to be established ; and

(vii) cause such other improvements to be made as are necessary to improve the sanitary condition of such union or part ; and

(b) the union board may, by written notice, require within a reasonable period to be specified therein,—

(i) the owner or occupier of any hut, or the owner of any privy to remove such hut or privy either wholly or in part ; or

(ii) the owner or occupier of any building to construct private drains therefor or to alter or remove private drains thereof ; or

(iii) the owner or occupier of any land or building to which any such well, pool, ditch, tank, pit, pond or place as is referred to in clause (a)(iv) pertains, or of any such land as is referred to in clause (a)(v), to do anything which the

union board is itself empowered to do under either of those clauses.

(2) If any work required by any such notice is not executed within the period specified in the notice, the union board may itself cause such work to be carried out, and may recover the cost of such work or part thereof from the owner or occupier referred to in clause (b) of sub-section (1), as if it were an arrear of rate imposed under section 73.

(3) An appeal shall lie against every notice issued under clause (b) of sub-section (1), to the chairman of the district board, who after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice.

Notes.—This section gives the union board ample power to make the union a healthy place of residence. The power to compel private persons to take action to put their own holdings into good sanitary condition should be exercised in a reasonable spirit, not asking for too much at first, but effecting improvements gradually year by year. Under section 61 compensation may be awarded by the union board to any person whose property is damaged by an improvement carried out for the general benefit of the public health.

- (2) As to payment of compensation to owners or occupiers, see note under section 61.
- (3) The orders of the district board can be enforced under the provisions of sec. 55.

28. (1) A union board may employ an establishment for the cleansing of the union or any part thereof.

Power of union board as to cleansing of unions

(2) Where no such establishment is employed by a union board, the board may, by written notice, require owners or occupiers of land in the union to cleanse such land to the satisfaction of the board within a reasonable period to be specified in the notice.

(3) If any person on whom notice has been served under sub-section (2) fails to comply with the requisition

contained in the notice, the union board shall, unless reasonable cause to the contrary is shown,—

- (a) cause the land to be cleansed, and
- (b) recover from such person such portion of the cost of such cleansing as the union board may direct, as if it were an arrear of rate imposed under section 37.

(4) An appeal shall lie against every notice issued under sub-section (2) to the chairman of the local board, who, after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice.

Note 1.—The powers conferred by this section may be exercised to enforce the regular cleansing of a bazar or hat.

- 2. In the cases of a bazar or hat, it will be convenient to issue a notice for an unlimited period. For instance, the owners or occupiers may be required to cleanse a bazar daily, or the owners of a hat may be required to cleanse the place on the day after the hat is held. Nevertheless, when a change of owners or occupants occurs, it is reasonable that a fresh notice should be served on the new owner or occupant.
- 3. If a union board maintains a conservancy establishment for a part of the union, an additional assessment should be imposed on the residents of that part approximately equal to the cost of such establishment.
- 4. As to the making of compensation to owners or occupiers, see note under sec. 61.

Power of union board to control erection of buildings etc.

29. (1) The union board may, subject to rules made under section 101, by written order,—

- (a) direct, in accordance with a scheme approved by the local board for any part of the union, that no building, wall or platform shall be erected, re-erected or added to in advance of an alignment to be prescribed by the union board and demarcated on the ground; and

- (b) prescribed, in accordance with the said scheme, the space which shall intervene between any new or enlarged building and the building next adjacent and between any new or enlarged building and any road in the union.

(2) Where any building, wall or platform has been placed in contravention of an order passed by the union board under sub-section (1), the union board may apply to the district magistrate, and such magistrate may make an order—

- (i) directing either that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building, wall or platform, or that it be altered by him to the satisfaction of the union board, within such time as may be fixed by the district magistrate ; or
- (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under subsection (1), be demolished or altered by the union board at the expense of the owner within such time as may be fixed by the district magistrate :

Provided that the magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(3) If any person to whom a direction to demolish or alter any building, wall or platform, is given under clause (i) of sub-section (2), fails to obey the same, he shall be liable to a fine which may extend, in the case of a masonry building, wall or platform, to one hundred rupees, and, in the case of any other building, wall or platform, to twenty rupees, and to a further fine which may extend, in the case of a masonry building, wall or platform, to ten rupees, and in the case of any other

building, wall or platform, to two rupees for each day during which, after the period fixed by the district magistrate, he fails to obey the direction to demolish or alter the building, wall or platform.

Notes.—1. This section empowers the union board to arrange that when a new bazar or village is established it should be laid out in a manner convenient to the public. The alignment prescribed should be marked on a large scale map to be kept with the union board records and should also be clearly demarcated on the ground by means of brick pillars or other permanent marks.

2. If any person commences to erect a structure which contravenes the provisions of the scheme, the fact should immediately be reported to the president, who should explain to the person concerned the orders issued by the union board, and ask him to stop the work. If the person refuses to comply, the assistance of the district magistrate must be invoked; but this should only be done in the last resort. It is very desirable that by the exercise of its own authority combined with tact the union board should avoid references to the magisterial head of the district.

30. (1) A union board may provide the union or any part thereof, with a supply of water, proper and sufficient, for public and private purposes; and, for such purposes, may, or, under the orders of the district board, shall,—

Power of union board provide for proper water-supply.

- (a) construct, repair and maintain tanks or wells, and clear out streams or water-courses;
- (b) with the sanction of the Local Government, and subject to such rules as may be made under section 101, construct, repair and maintain water-works;
- (c) purchase or acquire by lease or gift any tank, well, stream or water-course, or any right to take or convey water within or without the union;
- (d) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the union, or provide facilities for obtaining water therefrom;

(e) contract with any person for a supply of water ; or

(f) do any other acts necessary for carrying out the purposes of this section.

(2) The union board may, by order published at such places as it may think fit, set apart for the supply to the public of water for drinking or culinary purposes any tank, well, stream or water-course in respect of which action has been taken under clause (a), (c) or (d) of sub-section (1), subject to any rights which the owner referred to in clause (d) of that sub-section may retain with the consent of the board.

(3) The union board may, by order published at such places as it may think fit, prohibit all bathing, washing of clothes and animals, or other acts calculated to pollute the water of any tank, well, stream or water-course set apart for drinking or culinary purposes under sub-section (2).)

(4) Any person who disobeys an order issued under sub-section (3), shall be punished with fine which may extend to twenty-five rupees.

Notes.—1. No expenditure should be incurred from the union fund for the provision or improvement of a supply of water unless a right of user of the said water is expressly and assuredly secured for the public.

2. The union board may reasonably agree that the owner referred to in clause (d) shall retain a right to fish with rod and line at all times and with nets on certain specified days in the year and that if the tank should cease at any time to be a source of water supply, the property therein shall be again fully vested in the owner.

3. As to the making of compensation to owners, see note under section 6 .

4. An offence under sub-section (4) may be tried by the union bench.

5. An order of the district board under sub-section (1) can be enforced under the provisions of sec. 55.

31. (The union board shall have control of all roads, bridges and water-ways within the union, not being private property and not being under the control of the Local Government or the district board or local board, and may do all things necessary for the maintenance and repair thereof, and may—

Powers of union board as to roads, bridges and water-ways.

- (a) lay out and make new roads ;
- (b) construct new bridges ;
- (c) divert, discontinue or close any road or bridge ;
- (d) widen, open, enlarge or otherwise improve any road or bridge ;
- (e) deepen or otherwise improve water-ways ; and
- (f) provide for the lighting of any road or public place within the union.)

Notes.—1. Where there is a public right of way over private property, it is the duty of the union board to maintain that right of way and to prevent its being stopped or encroached upon.

- 2. The entry of a thoroughfare in a settlement map is an authoritative finding that a public right of way exists. Where an existing right of way is not recorded in a settlement map, whether owing to carelessness or to the smallness of the scale on which a map is made, the union board may place or record a resolution to the effect that a public right of way exists and may define its course, breadth and other particulars.
- 3. Where the public have acquired only a limited right of user, the section does not give to the union board any rights beyond those acquired by the public. For instance, if it is admitted that the public have acquired a right of way as a footpath, but the owner of the land proves that he has always prevented funeral and other processions from passing along that way, the union board is not given rights further than those acquired by the public.
- 4. As to the making of compensation to persons sustaining damage by reason of the exercise of any powers of the union board under this section, see note under section 61.

2. The union board may, subject to any rules made under section 101, establish primary schools or dispensaries, or assume charge of existing primary schools or dispensaries, and shall repair, maintain and manage any primary school or dispensary under its charge.

Notes.—1. The union board should, as rapidly as circumstances permit, increase the number of primary schools in the union until there are teachers, school-houses and equipment sufficient for every child in the union to be given a sound primary education.

2. See notes under Primary Education Act, section 3.
3. Where no competent medical practitioner is available the union board may with great advantage engage a qualified doctor and agree to pay him a subsidy for a limited period, during which he may establish a private practice sufficient to secure him an adequate income for the future. No condition should be imposed on him except that he must reside and practise exclusively within the union. He should be allowed to charge fees; but it may be expected that for his own reputation, he will treat poor persons free. He should be encouraged also to establish his own dispensary and may be granted a loan for this purpose. He should be provided with free quarters. The provision of funds for the purpose of establishing a union doctor will be an admirable object for a donation from a philanthropic resident of the union.
4. If the union board assumes charge of any private school or dispensary, the owner may, under Sec. 61, be compensated for any damages he sustains.

33. The district board or local board may, from time to time, with the consent of the union board, make over to a union board, subject to such conditions as they may deem necessary, the management of any institution or the execution of any work or duty within the area over which the union board has control; and thereupon such union board shall do all things necessary for the management of the institution or the execution of the work or duty;

Provided that the funds necessary for the management of the institution and the execution of the work

or duty shall be placed by the district board or local board at the disposal of the union board.

Notes—1. Village roads and local board roads and bridges will generally be made over for maintenance to the union board of the unions in which they are situated. To encourage the union board to show good results, it is a good plan to give the union board a grant equal to the average annual expenditure by the district board and local board on the works and institutions made over to the union board.

2. When a union board takes control of a board primary school, the district board should give the union board an annual grant equal to the sanctioned expenditure on the school. For any other primary school maintained by a union board, the district board should give the union board the same grant-in-aid as would have been given if the school were under private management.

34. (1) This section shall not apply to any union constituted under section 5 until the Local Government specially extends it thereto by notification.

Prohibition of certain
offensive or dangerous
trades without license.

(2) In any union to which this section is so extended, no place shall be used without a license from the union board, which shall be renewable annually, for the purpose of any trade or business which the Local Government may, by notification, declare to be offensive or dangerous.

(3) A notification under sub-section (2) may authorize the union board to levy a fee not exceeding such maximum amount as may be specified in the notification in respect of any license granted by it, and, subject to the approval of the district magistrate, to impose such conditions in respect of such license as may be considered necessary.

(4) Whoever, in any union, uses any place for the purpose of any trade or business which is declared under sub-section (2) to be offensive or dangerous, or fails to comply with any condition subject to which a license is granted under that sub-section, shall be

punished with fine which may extend to twenty-five rupees, and to a further fine which may extend to five rupees for each day after conviction during which he continues so to offend.

(5) The union board, upon the conviction of any person for failing to comply with any condition of a license granted under sub-section (2), may suspend or cancel any such license.

(6) An appeal shall lie to the district magistrate against every order by a union board refusing, suspending or cancelling a license; and the decision of the district magistrate thereon shall be final.

Note.—A union board can try an offence punishable with fine up to Rs. 25; but in view of the provision for a further fine for a continuing offence, it is doubtful whether a union bench is empowered to try a case under sub-section (4) of section 33. If an offence under that sub-section is committed the best course to adopt is for the president or the union board to report the facts to the subdivisional magistrate and request him to institute a prosecution.

35. The union board, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, clause (1) of section 26 or section 27, 28, 29, 30, 31, 32, 33 or 34.

Provided as follows :—

(a) no such entry shall be made between sunset and sunrise ;

(b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice signed by the president or vice-president of the intention to make such entry; and

- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

36. With the approval of the local board, a union board may appoint such staff of officers and servants as it may consider necessary to carry out its duties under this Act, and may fix the salaries to be paid to such staff.

Notes.—1. It is preferable that all the work of the Union Board should be done by members themselves. If, however, that is impossible, a clerk may be employed to make records or proceedings, to keep accounts and registers, to do clerical work connected with the union bench and union court and to collect the union rate. A union clerk need not be a whole-time officer. In small unions the village postmaster or a school teacher may be employed in that capacity.

2. There is a tendency where clerks are employed for the power to fall into their hands. This tendency must be guarded against and the clerk must not be allowed to do anything on his own authority. He must work under the orders of the president and must not be allowed to make any entry in a record except by the order and over the signature of the president or a member of the board. He should never appear to the public except as the ministerial assistant of the board.
3. A union board may sometimes find it necessary to engage a temporary sub-overseer in carrying out some important work for which some knowledge of survey or civil engineering is required; but usually members should manage such work themselves, and it is very desirable that they should do so because in that way not only will the pay of the sub-overseer be saved; but also more interest will be taken in the work and the risk of dishonesty will be reduced. In any case should never be necessary for a union board to retain a permanent sub-overseer.
4. A union board may also employ coolies for carrying out any of the duties imposed on it and sweepers for the cleansing of a hat or bazar or any other part of the union (cf. see 28).

CHAPTER V.

UNION FUND.

37. The union board shall impose yearly on the owners or occupiers of buildings, within the union, a rate amounting to—

- (a) the sum required, after deduction of the contribution, if any, made by the Local Government in this behalf, for the salaries and equipment of the staffs and chaukidars and the salaries of the establishment of the union board, and
- (b) the sum estimated to be required to meet the expenses of the union in paying out any of the other provisions of this Act, if such estimate has been approved by not less than two-thirds of the total number of the members of the union board meeting specially convened for the purpose, together with ten *per cent.* above such sums to meet the expenses of collection and the losses due to non-realization of the rate from defaulters.

Notes.—1. Every union must levy a rate. Under clause (a) this rate must be at least sufficient to cover the pay of the chaukidars and dafadars and of the union clerk and any other officers employed by the union board. It must also cover the cost of the equipment of the chaukidars and dafadars.

- 2. If it is desired that any work should be done for the improvement of the conditions of the union, the union board is authorised by clause (b) to raise funds for such purposes by increasing the union rate. Any such increase requires the assent of at least two-thirds (e.g. six out of 9) of the members of the board at a special meeting.
- 3. A budget should be laid before the board, which should show works it is desired to carry out during the year of assessment, the estimated cost, of the works, the estimated expenditure under clause (a) of Sec. 37, the probable income of the union board from all sources and the balance to be provided by the levy of union rate.

- 4 It would be a mistake for a union board to impose taxation under clause (b) without considering the wishes of the inhabitants of the union. But if the people are really in earnest in desiring any improvement in village roads, bridges, tanks, schools, sanitary works or the like and if they know by experience that funds provided for such purposes will be expended carefully and efficiently by the union board, the people will readily acquiesce in an increase of the union rate.

It is important that it should be realised that no work of village improvement can be undertaken without some taxation under clause (b). Of most unions it would be true to say that the amount levied under clause I (b) may be considered not so much as a measure of the needs of people as of the extent of their confidence in the union board. It is for this reason desirable that some definite improvement, however small, should be carried out by the union board at an early date after it is first constituted, in order that it may obtain the confidence of the people as to its integrity, its devotion to public interests and its ability to serve them well.

In sections 37 and 38, the word "person," includes any company or association or body of individuals, whether incorporated or not (cf. Bengal Act I of 1809).

Persons living with a particular individual, who occupy a building by reason of some connection with or relation to them, such as sons or servants, are not separately assessable even if they have separate incomes (see ruling in 2 C. W. N. 689 which refers to sec. 85 (a) Bengal Municipal Act which is in substance identical with the opening words of secs. 37 and 38 (1) of this Act.)

8. A joint undivided family should be assessed jointly as one "person"; but, if the members of a family mess separately, they are not a joint family or such an association of individuals as falls within the definition of "person." The very act of separation in mess breaks up the association. The members of such a family should be assessed separately even if they occupy the same building. The essential element of jointness is, in fact, the provision of a common *chula* or hearth.
9. A temporary occupier of a building, as for example a jute trader who erects or hires a building for use as a temporary godown or office, should be assessed.
10. A person who owns a vacant building is assessable; so also is a person who holds the lease of building and keeps it ready for occupation though it is not actually occupied.
11. See also rules on pp.....

38. (1) The rate to be imposed by a union board under section 37 shall be an assessment according to the circumstances and the property within the union of the persons liable to the same:

Nature assessment.

44 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Provided that the amount assessed upon any person in any one year shall not be more than eighty-four rupees.

(2) Any person who, in the opinion of the union board, is too poor to pay half an anna a month, shall be altogether exempted from payment of any rate under this Act.

Notes.—1. In municipalities the tax on persons is assessable according to their circumstances and property within the municipality (cf. sec. 85 (a) Bengal Municipal Act). The interpretation of the words used in the Municipal Act should therefore be held as applicable also to this section.

2. The general effect of the cases decided by the courts is that the words "circumstances and property within the union" are to be taken as equivalent to "the income derived from and the property situated in the union." Income derived from property outside the union is not to be considered in making an assessment.

3. If a building is in the charge of an agent, the person to be assessed is the employer and the assessment should be based on the employer's means within the union. The agent is assessable on his salary and his other personal means within the union.

39. The assessment for the imposition of rate

Procedure of assessment and revision thereof by the union board.

under section 37 shall be made in accordance with rules prescribed under section 801, and any person dissatisfied with the amount at which he has been assessed may, within such time as may be specified in those rules, supply to the union board, either orally or in writing, for a revision of the assessment, and the union board may amend the assessment or confirm the same.

Note.—Meetings of the union board for the revision of assessment should be held at various villages in the union. Notice should be issued beforehand of the time and place at which the meeting will be held and all residents of the union should be freely admitted.

40. The district magistrate may, at any time, call

Power of district magistrate to revise assessment.

for the papers containing the assessment of the union rate imposed under section 37, and may, after such inquiry as may be necessary, pass such orders thereon as he may think proper.

- Notes.*—1. The district magistrate may order an inquiry on his own motion, on information received, or on a petition.
2. The officer who makes the inquiry should, before submitting his report, discuss the matter with the union board.

41. The payment of the rate shall be made in accordance with rules prescribed under section 101, and, in case of default of any such payment, the president of the union board, or, if so directed by him, the vice-president, shall cause the chaukidar or any other person authorized in writing by the president or the vice-president to levy, by the distraint and sale of a sufficient portion of the movable property of the defaulter, the amount of his arrear, together with a sum equal to half the amount of such arrear, by way of penalty.

- Notes.*—1. The union clerk, or other officer appointed by the union board to collect the union rate should not be expected to visit the houses of assessees for this purpose.
2. The union board should fix the instalments in which the rate will be payable, the latest date of payment for each instalment, and the hours and days of the week at which the collecting officer will attend his office for the receipt of payments.
3. For the convenience of assessees in various parts of the union, the board may also notify that on a specified date at a specified time and place the collecting officer will attend to receive payments.
4. Care should be taken to fix the latest dates for payments at times when the assessees can most conveniently meet their dues. In an individual case of calamity the union board may allow a postponement of the latest date of payment, provided that the funds of the union board are sufficient to defray its obligations.
5. If an instalment is not paid by the latest date for payment, the president should at once proceed to realize the arrear and penalty.
6. The rules regarding the realisation of the rate will be found on p.

42. (1) The distraint and sale of such movable property shall be conducted in accordance with rules prescribed under section 101.

What property may be distrained and sold for arrears.

(2) All goods and chattels, except plough-cattle and tools and implements of trade and agriculture, found in

or upon any building or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear, and also the penalty due under section 41.

(3) If any of the goods and chattels liable to be distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Notes.—1. Provisions similar to those in sub-section (2) and (3) are in force in municipalities (cf. sec. 121 municipal act.)

2. The rules regulating distraints and sales will be found on p....

43. If the union board is unable to recover under section 42 the amount due for the

Distrain and sale of property beyond limits of the union.

arrear of rate and the penalty, the district magistrate may, on the application of the union board issue his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the magistrate, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other magistrate exercising jurisdiction within Bengal; and such other magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the magistrate issuing the warrant, who shall remit the same to the union board.

Note—Application is not to be made to the district magistrate unless there is no movable property within the union which can be distrained under sections 41 and 42 for the recovery of the amount due.

44. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account

Irregularities not to avoid distraint.

of any defect, irregularity or want of form in any assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, sustained by them, in any court of competent jurisdiction, subject to the provisions of section 64.

45. The district board may make to the union board such grants-in-aid from the district fund, as they may think fit, to enable the union board to carry out any of the purposes of this Act, and may attach to such grants any conditions that may appear to the district board to be desirable :

Provided always that in the case of any union board which has imposed a rate under clause (b) of section 37 the district board shall make a suitable grant-in-aid.

Note.—1. It is advantageous in every way that the district board should make its grants to union boards proportional to the amount of rate realised under clause (b) of section 37.

2. It is not sufficient to consider only the rate *assessed* under section 37 (b). District board grants should be disbursed in proportion only to the amount actually *realised* under that clause.

46. (1) All sums realized under section 41 and all sums realized as fines, fees or costs under section 22, any fees paid to the union board in respect of processes served through the board, and all other receipts of the union board, union bench or union court, including any donation or contribution from a private person, shall be paid into a fund to be called "the union fund," the accounts of which shall be kept in accordance with rules prescribed under section 101.

48 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

(2) Except as is otherwise provided in this Act, the expenses incurred by the union board, the union bench or the union court in carrying out the purposes of this Act, including such reasonable compensation as the board may think fit to pay under section 61, shall be paid out of the union fund :

Provided that the salaries and cost of equipment of dafadars and chaukidars and the salaries of establishment of the union board shall be the first charge upon the union fund :

Provided also that all sums made over to a union board for any specific purpose shall be applied solely to that purpose.

Notes.—1. The union fund may derive income from the following sources, viz :—

- (i) Union rates under section 37.
- (ii) Sums realised as penalty under section 41.
- (iii) Fees for trade licenses under section 54.
- (iv) Fees paid to the union board in respect of processes served through the union board under section 26 (4).
- (v) Fines imposed by the union bench under section 72 or section 96(4).
- (vi) Sums realised under section 99 on the forfeiture of bonds executed under section 70 (3).
- (vii) Suit fees realised under section 90.
- (viii) Fees levied by the union bench or union court for copies of documents (cf. sec. 100 (2) (a).)
- (ix) grants by the district board under section 33 for expenses of works or institutions made over to the union board.
- (x) Income derived from any property, institution or work vested in or maintained by the union board, e.g. :—
 - (a) Fees paid by scholars attending schools maintained by the union board.
 - (b) Proceeds of fishing in union board tanks or of grazing on union board roads.
 - (c) Surplus income accruing within the union under sec. 18 of the Cattle Trespass Act. (cf. note to sec. 31 of that Act on p.....)

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 49

- (d) Proceeds of ferries transferred to the union board by order under section 35 of the Bengal Ferries Act, 1885.
- (x) Additional grants-in-aid made by the district board under section 45.
- (xi) Donations or contributions from private persons, whether for the general purposes of the union fund or for any specific purpose.
- (xii) Any grant that may be made by Government to the union fund whether on account of the salaries and equipment of dafadars and chaukidars, or water supply, or primary education, or registration of births and deaths or any other specific purpose.
- (xiii) Costs levied by the union board under section 27 (2), 28 (3), 29 (2) (ii) will be credited to the union fund but must be offset by entries of equal amounts on the expenditure side of the accounts of the fund.
(viz) Sums levied under decrees of the union court under section 86 and sums realized as compensation under section 72 (2) will be credited to the union fund; but the whole, except the suit fees, will be paid out to the parties to whom it has been awarded by the union court or union bench. If the decree is adjusted out of court, there will be no entry in the union fund accounts except for the suit fee.

Expenditure of the union fund will fall mainly under the following heads:—

- (i) Salaries and equipment of dafadars and chaukidars.
- (ii) Salaries of other staff employed by the union board.
- (iii) Maintenance and improvement of public roads and waterways.
- (iv) Demarcation and improvement of thoroughfares.
- (v) Construction of new roads and bridges.
- (vi) Maintenance and improvement of existing sources of water supply.
- (vii) Provision of new supplies of drinking water.
- (viii) Sanitation work, under section 27 or 28.
- (ix) Primary education, under section 32.
- (x) Medical relief, under sections 26 (5) and 32.
- (xi) Compensation made under section 61.
- (xii) Stationery and forms for the union board, bench and court.
- (xiii) Expenses of in connection with union board elections.

Until adequate provision has been made for the above purposes, the union board should avoid incurring unnecessary and unproductive expenditure. For instance, a separate building for the union board office or for the union bench or union court need not be provided; or, if a new building is constructed, it may also be made available for use as a school-house. Meetings of the union board and sittings of the union bench or union court may be held at the house of the president or any other convenient place within the union.

CHAPTER VI.

GENERAL PROVISIONS RELATING TO UNION BOARDS.

Delegation:

47. The district magistrate may by an order in writing, delegate the powers or duties specified in the first column of schedule III to the officers mentioned in the second column thereof.

Delegation of district magistrate's powers and duties.

Note.—Delegation may be complete or with certain reservations, e. g. the district magistrate may retain power to deal with any special case or any class of cases himself.

Disputes.

48. (1) If a dispute arises between two or more union boards, which are subordinate to the same local board, the matter shall be referred to such local board: and the decision of the local board thereon shall be final and binding.

(2) If a dispute arises between two or more union boards, which are within the same district but which are subordinate to different local boards, the matter shall be referred to the district board; and the decision of such district board thereon shall be final and binding.

49. If a dispute arises between a municipal authority and a union board within the same district, the matter shall be referred to the district magistrate and the decision of the district magistrate thereon shall be final and binding.

Dispute between a municipal authority and a union board.

Provided that, if the district magistrate is a member of the municipal authority concerned, his functions under this section shall be discharged by the commissioner.

50. Subject to the control of the district board, a local board shall superintend the administration of union boards within the area under the authority of the local board, except in matters relating to dafadars and chaukidars.

Note.—This section restores to local boards the control over union boards, which it was proposed to give to them under the terms of the Local Self-Government Bill of 1883 (cf. paragraph 98 of the report of the District Administration Committee). The proposal was dropped owing to objections taken by the Secretary of State.

51. (1) It shall be the duty of all commissioners, district magistrates, subdivisioal magistrates, circle officers and chairmen of district boards and local boards to see that the proceedings of union boards are in conformity with law and with the rules in force thereunder.

(2) The commissioner may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

Note 1.—If the circle officer finds that a union board has acted contrary to law or rules, he should bring the irregularity to the notice of the union board and advise them as to how to correct the irregularity. If they do not comply, he should report the fact to the subdivisioal magistrate if the matter relates to dafadars or chaukidars, and in other cases to the local board.

2. It is desirable that a copy of the proceedings of every meeting of a union board should be sent by the president to the circle officer. The circle officer should forward to the local board a copy of so much of the proceedings as does not relate to dafadars and chaukidars and to the subdivisioal magistrate a copy of the whole of the proceedings.

52. Every union board shall at all times permit the commissioner, the district magistrate, the chairman and the district board or local board, or any other person authorized by them or by the Local

Inspection of union board record.

52 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Government, to have access to all its books, proceedings and records.

Note.—Circle officers should be authorised and required to constantly inspect all the work and the records of union boards. They should act as the connecting link between the subdivisional magistrate and the local board on the one hand and the union boards on the other hand. They should keep the subdivisional magistrate and the local board constantly in touch with the doings of union boards and inform them immediately when any special need or difficulty arises in which a union board requires their assistance.

53. The commissioner, the district magistrate, the chairman of the district board and local board, and any other person authorized by them or by the Local Government, shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a union board.

Note.—See note under Section 52.

54. (1) If at any time the district magistrate is satisfied that the whole or any portion of the salaries, or of the cost of equipment, of dafadars and chaukidars, or of the salaries of the establishment of a union board, is in arrear, the district magistrate may appoint such person or persons as he may consider necessary to realize any sum so due, together with the incidental cost (if any) of collecting it.

Special provision in case of non-payment of chaukidars and staff.

(2) Any person so appointed may realize any such sum and cost either from the balance at the credit of the union fund or by the collection of any outstanding portion of the union rate assessed by the union board, or, if the amount so collected is insufficient, by the imposition and collection of a supplementary assessment.

(3) A person so appointed shall exercise all the powers vested in the union board for the assessment and collection of the union rate.

(4) The amount collected under sub-section (2) shall be disbursed in the payment of the sum and the cost referred to in sub-section (1), and the balance (if any) shall be paid to the union fund.

Notes Clause 1.—If this section has to be applied, one or more persons may be appointed to carry out the duties specified therein. It will be preferable to appoint private persons only but, if necessary, the circle officer may be appointed either alone or with another person. The person or persons appointed will exercise the powers conferred on the union board by sections 37 to 39 and 41 to 44.

2. It will probably be found convenient that the period of appointment should be for the remainder of the year as defined under section 4 (10)

55. (1) When a union board makes default in performing any duty imposed on it by the district board under section 27 or section 30, the district board may fix a period for the performance of that duty.

Power to provide for performance of duties under section 27 or 30 in case of default by a union board.

(2) If any such duty is not performed within the period fixed under sub-section (1), the district board may appoint such person or persons as they consider necessary to perform it, and may direct that the expense of performing it, together with a reasonable remuneration to such person or persons, shall be forthwith paid by the union board.

Notes Clause 1.—If the funds of the union board are not sufficient to defray the expense incurred, the union board will have to impose an additional assessment under sec. 37 (b).

2. If the union board refuses to pass the necessary resolution under sec. 37 (b), the only course open will be to supersede the board under sec. 59.

56. (1) If the commissioner, after consideration of the views of the district magistrate and the district board, is of opinion that a union board is not competent to perform, or persistently makes default in the performance of the duties imposed upon it by, or under, this or any other Act, or

Power to remove the president or supersede a union board.

exceeds or abuses its powers, the commissioner may, by an order in writing specifying the reasons for so doing, either—

(a) remove the president of the union board from his office both as president and as member ;
or

(b) supersede the board for a period to be specified in the order.

(2) Every such order shall be published locally in such manner as may be prescribed by rules under section 101.

Note 1.—If a president is removed under clause (1) (a), he cannot be re-elected to the union board in the by-election held to fill his place ; for under section 13 a new member must be elected.

2. The period of supersession should include a complete working season. It would seem appropriate that the period should be not less than 6 months and not more than 18 months.

57. (1) When a union board is superseded under section 56, sub-section (1), the following consequences shall ensue :—

Consequence of supersession.

(a) all members constituting the board shall, as from the date of the order, vacate their offices as such members ;

(b) all powers and duties of the union board shall, during the period of supersession, be exercised and performed by such local authority, person or persons, and in such manner, as the commissioner may direct ; and

(c) all property vested in the union board shall, during the period, vest in such local authority, person or persons, and in such manner, as the commissioner may direct.

(2) On the expiration of the period of supersession the union board shall be re-established by re-election or re-appointment in the manner provided in section 6.

Note.—During the period of supersession the duties of the union board may either all be performed by one or more persons appointed by the commissioner, or the duties in regard to *dafadars* and *chaukidars* may be performed by one or more persons acting in subordination to the district magistrate and the remaining duties by the local board or other persons acting in subordination to the district board. The latter arrangement would give rise to complications in regard to assessments and division of funds and the local board would be handicapped by having no authority over the *dafadars* and *chaukidars* as well as by its own lack of local knowledge and interest in the union. It will therefore be preferable not to subdivide the powers and duties of a union board during the period of supersession.

58. The district magistrate, or the district board may, by an order in writing, suspend the execution of any order or resolution of a union board within the jurisdiction of such magistrate or district board, or the doing of any act which is about to be done, or is being done, by such union board, if in the opinion of the district magistrate or the district board the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

Note.—So far as union boards are concerned this section may be regarded as superseding section 124 of the Local Self Government Act (see note under that section.)

✓ **59.** When the district magistrate or the district board makes any order under section 58, the magistrate or board, as the case may be, shall forthwith submit to the commissioner a copy of the order, with a statement of the reasons for making it and with any explanation which the union board concerned may wish to offer, and the commissioner may thereupon confirm, modify or rescind the order.

60. (1) If any member of a union board otherwise than with the sanction of the local board, or if any officer or servant being interested in a contract made with a union board, participates or agrees to participate in the profits of any work done by the union board, or is concerned or participates in the profits of any contract entered into with the board, he shall be liable on conviction before a criminal court to a fine which may extend to five hundred rupees.

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the union board; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the union board may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the union board; or
- (d) being a member of a society registered under the Co-operative Societies Act, 1912, which enters into any contract with the union board.

(2) Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b) of the proviso to sub-section (1), to act as a member of the union board in any matter relating to a contract or agreement between the union board and such company or the manager or publisher of such newspaper.

(3) Nothing in this section shall apply to the payment of fees to a legal practitioner for services tendered by him in his professional capacity.

Note.—A member of a union board is not prohibited from carrying out work on behalf of the board. In fact, it is most desirable that, so far as possible, the members should do all the work of the union board and that it should be done without remuneration or profit. One of the greatest advantages derived from union committees has been that the members have usually been willing to give their services free. Not only has the work been better done than before such committees existed, but great economy has been effected by avoiding employing contractors and salaried officers. Section 60 only provides a penalty in case any member or officer of a union board without express sanction has a pecuniary interest in any work or contract of the union board.

61. Every union board may make compensation to any person sustaining any damage by reason of the exercise of any of the powers conferred by his Act.

Power to make compensation for damage.

Notes 1.—This section is to be read with sections 46 (2) and 64 (3). Under the later a union board is empowered to compromise a civil suit. Under the former the union board can make reasonable compensation to persons who suffer pecuniary loss, or whose property is decreased in value, owing to action taken by the union board for the public benefit, in pursuance of this Act.

2. In the exercise of its powers under sections 27 (1) (b), 28 (2), 30 (1), 31 or 32 a union board may require an owner or occupier to take action with his property or may itself take action with private property under circumstances where it may be reasonable and equitable that part of the expense should be borne by the public. Under this section the union board may make compensation to the owner or occupier to such extent as is reasonable and fair. The union board is the sole judge of the amount of compensation which should be granted and its decision is final (cf. sec. 46 (2)).

62. (1) No member of a union board shall be personally liable for any contract made, or expense incurred, by or on behalf of the board.

Liability of members.

(2) Every member shall be personally liable for any wilful misapplication of money entrusted to the union board to which he shall knowingly have been a party,

and he shall be liable to be sued for the same by the district board.

Note.—See notes under sections 18 and 60.

63. No suit or other legal proceeding shall lie against a union board, or any member or officer thereof acting under the direction of such board, in respect of anything done lawfully and in good faith and with due care and attention under this Act or any rule made hereunder.

Note 1—The provisions of this section are a valuable protection to union boards and their members and officers. There is no corresponding provision in the Local Self-Government Act.

2. This section should be quoted in every written statement filed in defence of a suit against a union board or any member or officer of a union board in respect of anything done under this Act. If they have acted in good faith, and their lawful powers have not been exceeded and they have not been unduly careless, the court must find in their favour.

64. (1) No suit or other legal proceeding shall be brought against any union board or any of its members or officers, or any person acting under its direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such board, and also (if the suit is intended to be brought against any member or officer of the said board, or any person acting under its direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit; and unless such notice be proved, the court shall find for the defendant.

(2) Every such action shall be commenced within three months after the accrual of the cause of action, and not afterwards.

(3) If any union board or person to whom a notice under sub-section (1) is given shall, before a suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Note 1.—This section differs materially from section 146 of the Local Self-Government Act. By inserting the words “or other legal proceeding” the legislature has made it clear that this section applies not only to suits but also to civil court injunctions and legal proceedings of all kinds.

The insertion of Section 63 makes it clear that the legislature intends the provisions of section 64 to apply to legal proceedings of any kind arising out of any action of a union board or any of its members or officers. It has been held that Sec. 146 of the Local Self-Government Act applies only to suits arising out of a pecuniary claim for acts done by boards or committees and their subordinates, in excess of their statutory powers ; but in the Local Self-Government Act there is no provision corresponding to Sec. 63 of this Act. Reading Secs. 61, 63 and 64 as they stand it seems clearly to be the intention of the legislature that no legal proceedings shall be commenced against a Union Board or any of its members or officers without serving previous notice of the intention to institute such proceedings. The object of the notice is to give the union board and the district board time to consider whether the proceedings instituted should be contested.

A rule will probably be made to the effect that before instituting legal proceedings or entering appearance in defence of legal proceedings a union board shall obtain the sanction of the district board who should, before pronouncing orders, consult the Government pleader.

The words “sufficient amends” in sub-section (3) mean an amount which is accepted as sufficient by the plaintiff, or which the court decrees to be sufficient.

PART II.

CHAPTER VII.

UNION BENCHES AND UNION COURTS.

Union benches.

65. Whenever a union board has been established for any union, the Local Government may, by notification, appoint any two or more of the members of the board to be a union bench, during their term of office as members of the board, for the trial, in the whole or any part of the union, of the offences specified in schedule IV, if committed within the limits of its jurisdiction.

Note 1.—After union boards are established it will apparently be the duty of the district magistrate to recommend, from time to time, the constitution of union benches and union courts in unions which are sufficiently advanced for this development.

2. Only members of the union board can be appointed as members of a union bench or union court.
3. Members of union benches and union courts will be appointed by name and probably it will never occur that all the members of a union board are appointed *ex-officio* to be members of the bench or court; for it is inconceivable that all the members of a board will always be persons suitable to serve on a bench or court.
4. After a general election of a union board, the court and bench will cease to exist (cf. sec. 11) unless members of the new union board are appointed afresh to the court and bench. If fresh appointments are made the new court or bench will have continuity of jurisdiction, subject to the right of parties to claim *de novo* trial.
5. The quorum is fixed by rule at two; but there is no objection to more members being appointed to the union bench. It would frequently be difficult for more than 2 members to sit together throughout the trial of a case. A bench may very suitably be composed of a senior man, say a retired munsif or deputy magistrate, and an intelligent young man of the locality. The junior member would benefit by the experience of the senior and the latter would be helped by the former's general knowledge of local affairs.

6. Since the president should not sit on the bench when a case instituted by him is being tried, it is advisable that at least 2 other members besides the president of the union board should be appointed to the union bench (see note under sec. 95).

66. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the union bench shall have jurisdiction concurrent with that of the criminal court within the local limit of whose jurisdiction the union is situated, for the trial of all offences specified in schedule IV, part A, and the union bench may try any offence specified in schedule IV, part B, if the case is transferred to the bench by a district magistrate, subdivisional magistrate or any other magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898 :

Provided is follows :—

(a) a magistrate before whom a complaint of an offence cognizable by a union bench is brought may transfer the complaint to the union bench ;

(b) the district magistrate or subdivisional magistrate may transfer any case from one union bench to another or to any other court subordinate to him.

67. A case before a union bench may be instituted by petition, made orally or in writing to a member of the union bench. If the petition is made orally, the member shall record the name of the petitioner, the name of the person against whom the petition is brought, the nature of the offence and such other particulars, if any, as may be prescribed by rules under section 101, and shall direct the petitioner to appear before the bench.

*Note :—*A petition can be received and recorded by a single member of the union bench. When that is done, the member must direct the petitioner to appear before the union bench, which will proceed in the manner indicated in section 68, 69 or 70.

62 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

The Rules regulating the procedure of union benches are given later.

68. (1) If upon the face of the petition; or on examining the petitioner, the union bench is of opinion that the petition is frivolous, vexatious or untrue, it shall dismiss the case by order in writing.

(2) If at any time it appears to the bench—

(a) that it has no jurisdiction to try the case, or

(b) that the offence is one for which the sentence which the bench is competent to pass would be inadequate, or

(c) that the case is one which should not be tried by the bench.

it shall direct the petitioner to the proper court.

*Note :—*As regards clause (2) (c), see section 95 and note thereunder.

69. If in any case before a union bench the petitioner fails to appear on the day fixed, or if in the opinion of the bench he shows negligence in prosecuting his case, the bench may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

70. (1) If the petition be not dismissed the union bench shall, subject to the provisions of section 98, by summons or otherwise, require the accused to appear and answer the petition.

(2) If the accused fails to appear or cannot be found, the bench shall report the fact to the nearest magistrate, who may issue a warrant for the arrest of the accused, and when arrested may forward him for trial to the bench, or release him on bail to appear before it.

(3) The union bench shall if possible try the case on the day on which the accused appears or is brought before it; but if that is not possible, the union bench shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before the bench on any subsequent day or days to which the trial may be adjourned.

Notes :—Sub-section (1)

If the accused resides within the union, the union bench should ordinarily send a dafadar or chaukidar to call him before it. If he does not reside within the union he should be summoned in the manner indicated in note 1 under section, 96. Witnesses should be sent for in the same manner as accused.

If the union bench thinks fit, the accused may be permitted to appear by agent (Cf. sub sec. (1), sec. 97).

Sub-section (2). 3. If a bail bond is executed, it should be forwarded to the union bench for their information, and if the accused fails to appear on the date fixed in the bail bond, the union bench should return the bond to the magistrate with a report recommending that action be taken under sec 514 of the Criminal Procedure Code.

1. If by warrant the arrest of the accused is not effected, the subdivisional or district magistrate may transfer the case to his own file, and issue orders for proclamation and attachment of the property of the accused.
5. The words "nearest magistrate" in this sub-section must mean the nearest magistrate having power to try offences committed in that union.

Sub-section (3) See note (2) under sec. 99.

Bar to appeal from or revision of the order of union bench, but power of order retrial.
Act V of 1898.

71. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, there shall be no appeal by a convicted person in any case tried by a union bench.

Provided that the district magistrate or sub-divisional magistrate if satisfied that a failure of justice has occurred, may, of his own motion, or on the application of the parties concerned, cancel or modify

any order of conviction or of compensation made by a union bench or direct the retrial of any case by a court of competent jurisdiction subordinate to him.

Notes on Proviso (1)—The expression "any order of conviction" is used in a rather unusual sense. In all probability, it was adopted for the sake of brevity and was intended to include "any finding of conviction and any sentence passed" As it stands the proviso might be read as meaning that if the magistrate upholds the conviction he is not empowered to modify the sentence. It may be presumed that this was not the intention of the legislature and that the magistrate is by this proviso authorised to cancel or modify any order of conviction and sentence under sec. 72 (1) or any order of compensation under sec. 72 (2).

2. A magistrate will not interfere with the order of a union bench on a mere technical point or unless he is convinced that material injustice has been done.

72. (1) A union bench shall record its decision

Power of union bench to impose fine or to award compensation.

in writing, and may sentence any offender convicted by it to pay a fine not exceeding twenty-five rupees, or in default to imprisonment for a period not exceeding seven days.

(2) If a union bench is satisfied that a complaint made before it or transferred to it for trial is vexatious or frivolous, the bench may order the complainant to pay to the accused such compensation, not exceeding twenty-five rupees in all, as it thinks fit, or in default may sentence the complainant to simple imprisonment for a period not exceeding seven days.

(3) When a person has been sentenced to imprisonment under sub-section (1) or sub-section (2) in default of such payment, if such fine or compensation be not paid or realized within ten days of the passing of the sentence or order, or within such further time, if any, as the bench may allow, the bench may cause him to be arrested and may commit him to the nearest jail to serve his sentence.

Provided that, notwithstanding anything contained in the Indian Penal Act XLV of 1860. Code,—

(a) the fine imposed or compensation awarded by a union bench shall not be realized from any person who has served his term of imprisonment under this section ;

(b) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment :

Provided also that no woman shall be sentenced to imprisonment in default of payment of fine or compensation.

(4) All fines realized by the union bench shall be credited to the union fund.

Notes 1.—Any fine or compensation ordered to be paid may, if not paid voluntarily, be realised in the same manner as an arrear of union rate (cf. sec. 99). If the amount is not paid or realised in that manner within 10 days the provisions of sub-section (3) come into force.

2. If the offence is punishable with rigorous imprisonment, the accused may be sentenced in default of payment of fine either to rigorous or to simple imprisonment. In all other cases the imprisonment in default must be simple (cf. sec. 66 Indian Penal Code).
3. The sentence of imprisonment should commence from the date on which the union bench passes order under sub-section (3) committing the prisoner to jail. The day on which the order is passed will be counted as a day of the sentence.
4. With reference to proviso (b), it is to be noted that the prisoner will not be released before the expiry of his sentence unless the whole amount of the fine or compensation is paid.
5. The union bench is not empowered when passing sentence to order payment of compensation to the person injured (cf. sec. 545 C. P. C.) As section 345 of the Criminal Procedure Code also does not apply to trials before union benches (cf. sec. 93 of this act) there seems to be some difficulty in securing the payment of some compensation to persons injured. Moreover a case which is dropped on compensation being paid leaves behind less bitter feelings than a case fought to a finish. No harm will result and much good will be done by a

union bench securing suitable compensation to the person injured and then dismissing the case. It is suggested that the union bench may allow cases under the following sections to be withdrawn on payment of suitable compensation to the person injured, viz :—

Sec. 24, Cattle Trespass Act,

Secs. 289, 323, 334, 341, 352, 430, 358, 426, 447, 448, 504 and 506 of the Indian Penal Code.

After the accused has paid compensation, if the petitioner does not continue to prosecute the case, the bench may dismiss it under sec. 69.

73. Whenever a union court has been established for a union, the Local Government may, by notification appoint any two or more of the members of the board, to be a union court during their term of office as members of the board, for the trial, in the whole or any part of the union, of all or any of the classes of civil suits specified in section 74.

Constitution of union court.

Notes 1.—See notes under Sec. 65.

2. Civil judicial power may be conferred by instalments, so that union courts may begin by trying the simplest kind of suits, their jurisdiction being extended gradually according to the measure of success they obtain.

74. Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and subject to the provisions of section 75 and 76, the union court and the ordinary civil court, within the local limits of whose jurisdiction the union is situated, shall have concurrent jurisdiction to try the following classes of suits, namely :—

Jurisdiction of union court.

XII of 1887.

IX of 1887.

Act V of 1908.

(a) suits for money due on contracts ;

(b) suits for the recovery of movable property or the value of such property ; and

- (c) suits for compensation for wrongfully taking or injuring movable property.

when the value of the suit does not exceed two hundred rupees :

Provided that, on the application of any defendant made in accordance with the provisions of section 81, the court of small causes or court of the munsif, within the local limits of whose jurisdiction the union is situated,—

- (i) may withdraw the suit when its value does not exceed twenty-five rupees, and
- (ii) shall withdraw the suit when its value exceeds twenty-five rupees,

from a union court for trial by itself.

75. No suit shall lie in any union court—
 Certain suits not to be tried by union court.

- (1) on a balance of partnership account,
- (2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will,
- (3) by or against Government or public officers in their official capacity,
- (4) by or against minors or persons of unsound mind
- (5) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property, or
- (6) by a mortgage of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

68 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Note.—The expression—"public officers" in clause (3) is not defined. Assuming it to bear the same meaning as the term "public servant" in the Penal Code, it will include any member or officer of a union board (cf. sec. 21 I. P. C.) Section 95 should be read in this connection.

76. No suit shall lie in any union court, unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, and the cause of action has arisen wholly or in part within those limits.

Note.—The exact meaning to be attached to the word "resides" as used in this section is not quite clear. It is certain that a person who spends the greater part of his time within the union is to be deemed to reside there; but it is doubtful whether a person who only has a place of residence within the union, which he seldom visits, should be considered as residing therein. In the absence of any ruling, it will be fairly safe to assume that the word "resides" is intended to include any person who has a place of residence within the union, in which he usually lives, or which he visits at frequent intervals.

77. (1) A suit before a union court may be instituted by petition made orally or in writing. If the petition is made orally, the court shall record such particulars as may be prescribed by rules under section 101.

How suit may be instituted.

(2) The plaintiff on instituting his suit shall state the value of the claim.

Note 1—The plaintiff may appear by agent, (cf. sec. 97 (2)).

2. Rules regulating the procedure of union courts will be found on subsequent pages.

78. (1) If at any time the union court is of opinion that the suit is barred by limitation, the court shall dismiss the suit by order in writing.

Action to be taken if suit not triable by a union court.

(2) If at any time it appears to the court that it has no jurisdiction to entertain the suit, the court shall direct the petitioner to the proper court.

Note 1.—An order of dismissal under sub-section (i) is a “decree” (cf. sec. 4 (ii) and a suit fee may be levied under sect. 86)

2. As regards sub-section (2)—cf secs. 85 and 95.

79. If in any suit before a union court the plaintiff fails to appear on the day fixed, or, if in the opinion of the court, he shows negligence in prosecuting his suit, the court may dismiss the suit for default:

Dismissal of suit for default.

Provided that a union court may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the court that he was prevented by sufficient cause from appearing.

Note.—An order of dismissal under this section is not a decree (cf. sec. 4 (ii) and no suit fee may be levied thereon.)

80. If on receiving the petition the union court is satisfied that the trial of the summons to defendant to appear and answer. suit may be proceeded with, it shall, by summons or otherwise, require the defendant to appear and answer the suit either orally or in writing.

Notes 1.—Usually the union court should send a dafadar or choukidar to call the defendant and witnesses before it (cf. sec. 96).

2. The defendant may appear by agent (cf. sec. 97 (2))

3. If the defendant does not appear either personally or by agent, it will probably be advisable in view of the proviso to Section 82, that the union court should record the statement of the person deputed to call the defendant as to the manner in which he communicated to the defendant the order of the union court and, if there is any doubt as to the order having been duly communicated, should issue another order calling the defendant to appear.

4. If the defendant cannot be found when called for, the union court should cause a written summons to be served on him personally or at his place of residence within the union. In the summons a date should be fixed for his appearance which will give him sufficient opportunity to appear either in person or by agent.

5. As to whether a person should or should not be considered as residing within the union, see note under sec. 76; and, as to the manner of summoning persons resident outside of the union, see note under sec. 96.

81. If before the commencement of the hearing of the suit, the defendant notifies to the union court that he has applied or that he intends to apply under the proviso to section 74 for the transfer of the suit to the court of small causes or the court of the munsif, the union court shall postpone the trial in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon.

82. If the defendant fails to appear, and the union court is satisfied that he received notice of the date fixed for the hearing, the court may decide the suit *ex parte*.

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the union court to set aside the order; and the court, if satisfied that the defendant did not receive due notice of the date of hearing, or was prevented from appearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

Notes.—See notes 3 and 4 under sec. 80.

83. No decision or order of a union court shall be set aside under section 79 or section 82 unless notice in writing has been served by the union court on the opposite party.

No order to be set aside without notice to opposite party.

Notes 1.—In the written notice a date should be specified on which the union court after hearing any objections that are made, will pass final orders in the matter.

2. The written notice should be served personally, if addressed to a person who resides within the union, and by registered post if addressed to a person who does not reside therein.

84. (1) Subject to the provisions of clauses (3) and (4) of section 75 the union court shall add as parties to a suit any persons whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register :

Power of union court to determine necessary parties.

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

Note 1.—The “register of suits” is one of the registers to be prescribed under section 101 (2) (p.)

2. The notice prescribed in sub-section (1) need not be in writing: but if the person to whom it is addressed does not reside within the union it is advisable that it should be in writing and that it should be served in the manner indicated in note 1 under sec. 96.

85. No union court shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same court or in any other court in a previously instituted suit between the same parties, or between parties under whom they or any of them claim, or has been heard and finally decided in a suit between the same parties, or between parties under whom they or any of them claim.

86. When the parties or their agents have been heard and the evidence on both sides considered, the union court shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating

Certain suits not to be tried by union court.

Decision of union court.

in the decree the amounts payable as fees under section 90, and the amount, if any, paid to witnesses under section 96, sub-section (3), and the persons by whom such amounts are payable.

87. A union court in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid, or the movable property be delivered, by instalments.

88. The decision of a union court in every suit shall be final as between the parties to the suit :
 Decision of union court to be final ; but power to order retrial.

Provided that the district Judge may, on the application of any party to the suit made within thirty days of the decree of the union court, cancel or modify the order of the union court or direct a retrial of the suit by the same or any other union court or by any other court subordinate to him if he is satisfied that there has been a failure of justice.

Note.—The district judge will not interfere on a technical point but only if satisfied that injustice has been done.

89. If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (4) of section 75, be proceeded with at the instance of, or against, the legal representatives of the deceased plaintiff or defendant, as the case may be.

Death of parties.

Notes 1.—If a defendant dies before a suit is decided, the claim against him should be dismissed unless the plaintiff applies to the union court to substitute the name of the legal representatives for that of the deceased, or unless the union court considers that their presence as parties is necessary for a proper decision of the suit. In either of the latter events the union court should substitute the names of the legal representatives for that of the defendant in the register of suits and no further proceeding should be taken until notice has been served on the legal representatives. Such notice should be served in the manner indicated in note 2 under Section 84.

2. The term "legal representatives" is defined in the note under sec. 4 (11).

90. (1) In all suits instituted in and decided by a union court a fee of one anna in the rupee shall be payable on the amount of the claim up to twenty-five rupees, and an additional fee of half-an-anna for every rupee of the claim above twenty-five rupees.

(2) If the claim is decreed in full, the fee shall be realized from the judgment-debtor together with the amount decreed.

(3) If the amount is decreed in part, the fee shall be realized *pro rata* from the decree-holder and the judgment-debtor.

(4) If the suit is dismissed, the fee shall be realized from the plaintiff.

(5) All such fees realized by the union court shall be credited to the union fund and shall not be paid to either party.

Notes 1.—The plaintiff must state the value of the claim at the time of instituting the suit (cf. sub-section (2), sec. 77) but the fee need not be paid in advance.

2. The rate of fees charged in union courts is somewhat less than half the rate in Small Cause Courts and in union courts parties have the further advantage that no process fees are levied.

91. (1) If the union court granting a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him and the amount due on account of fees under section 90.

(2) Any decree-holder wishing to execute a decree of a union court may apply to the court of the munsif within the local limits of whose jurisdiction the union is situated and shall present with his application a certified

copy of the order of the union court ; but no application for execution shall be entertained by the munsif—

- (a) unless the union court has certified that it is unable to effect satisfaction of the decree and
- (b) unless the application is made after the expiry of three months from the date of the decree.

(3) In executing a decree of a union court a munsif shall have the same powers and follow the same procedure as if he were executing a decree passed by himself, but any amount realized on account of fees under section 90 shall be credited to the Local Government.

Notes.—The decree-holder may accept satisfaction in any form to which he and the judgment debtor may naturally agree. If the holder of a decree for money is unable to obtain satisfaction amicably, he should apply to the union court, which will issue an order on the union board under section 99 for the recovery of the various amount payable by the judgment debtor. If, even after exercising its powers under sections 41 to 43, the union board also is unable to realize the whole of the amounts payable by the judgment debtor, the decree-holder should apply for a certificate under section 91 (1).

- 2. If the decree is adjusted out of court, the whole of the fees will be payable.
- 3. If, one month after the decree, the fees or any part of the fees remain unpaid and the decree holder has not applied to the union court for the recovery of his dues, the union court should proceed under section 99 to realize the fees due.

92. When the amount decreed under section 86 and the amount due on account of fees under section 90 are not realized in full, such sum as is realized shall be rateably distributed—

Sums realized in part satisfaction of demand to be distributed rateably.

- (a) If realised by the union court, between the decree-holder and the union fund, and
- (b) If realized by the court of the munsif, between the decree-holder and the Local Government.

Note.—This section deals with the amount decreed and with the amount of fees due; but nothing is said as to the expenses paid to witnesses under sec. 96 (3). Apparently, if the union court orders that expenses paid in advance to witnesses by one party shall be recovered from another party, this recovery is to be treated as a last charge to be defrayed after other dues from the party liable have been discharged. For instance, if a claim for Rs. 39/- is decreed in full, the fee of 2/- will be payable by the defendant. Supposing that the union court also orders him to pay the expenses (say Rs. 5/- of witnesses summoned at the instance of the plaintiff, that order will not be carried out unless the amount of the decree and the suit fee are first paid in full. If the total amount that can be realised from the defendant is only Rs. 30/-, the plaintiff will be entitled to receive $\frac{2}{3} \times 39$ or Rs. 28/9 out of his total dues of Rs. 44 and Rs. 1/7 will be credited to the union fund as suit fee. As another instance, suppose that the claim for Rs. 99 is decreed only to the extent of one half and that the union court orders the plaintiff to pay the expenses (say Rs. 3) paid to some witnesses summoned by the defendant. Each of the parties will have to pay one rupee as suit fee but, in paying the decretal amount of Rs. 19/8, the defendant will be entitled to deduct the sum of Rs. 3 advanced by him as expenses of witnesses. Suppose again that only Rs. 10 can be realised from the defendant, the plaintiff will be entitled to $\frac{1}{2} \times 10$ or Rs. 5 out of that amount, 5 annas only will be credited as suit fee and the defendant will not be able to recover any amount from the plaintiff.

*General provisions relating to union benches
and union courts.*

Procedure by union
benches and union courts.

93. (1) The provisions of—

VII of 1870.

(a) the Court-fees Act, 1870.

(b) the Code of Criminal Procedure, 1898, excepting
Act V of 1898. Chapter XXXIII. and

Act V of 1908. (c) the Code of Civil Procedure, 1908,

shall not apply to any trial, suits or proceeding before a union bench or a union court.

(2) The procedure to be followed by a union bench or a union court in any trial, suit or proceeding and in the enforcement of its decisions and orders, and in the

76 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

method of forming a quorum shall, subject to the provisions of this Act, be in accordance with rules prescribed under section 101.

Note.—Chapter XXXIII of the Criminal Procedure Code relates to the trial of European British subjects. Such persons cannot be tried by a union bench unless they relinquish their right to be dealt with as European British subjects (cf. sec. 454 C. P. C.)

94. (1) The union bench and the union court shall be presided over by the president of the union board, if he is a member of the bench or court.

Persons who are to preside over union bench or union court.

(2) If the president of the union board is absent from a sitting of the union bench or court, or if he is not a member of the bench or court, the bench or court, as the case may be, shall elect its own president.

(3) In case of difference of opinion among the members of the bench or court the decision or order of the bench or court shall follow the opinion of the majority of the members present and voting.

(4) In case of an equality of votes, the person presiding over the bench or court shall have a second or casting vote.

Note.—It is probable that the union bench or union court will be able to arrive at a unanimous decision, as is invariably done by benches of honorary magistrates, although they usually consist of two members.

95. No member of a union bench or union court shall try any case or suit or other proceeding to which he is a party, or personally interested.

Member of union bench or court not to try case or suit in which he is interested.

Explanation.—A member of a union bench or union court shall not be deemed a party or personally interested within the meaning of this section in any case by reason only that he is a member of a union board.

Note.—Under the provisions of section 75 (3) a union court cannot try a suit in which a union board, or any member or officer, of a union board, as such, is a party. There is nothing to prevent a union

bench from trying a criminal case in which the union board is the prosecutor; but the president or other member of the union board who instituted the prosecution should not sit on the union bench which tries the case.

96. (1) Subject to the provisions of section 98, a union bench or a union court may, by summons or otherwise, send for any person to appear and give evidence or to produce or cause the production of any document :

Attendance of witnesses. Provided that no person who is exempt from personal appearance in court under section 133, sub-section (1), of the Code of Civil Procedure, 1908, shall be required to appear in person before a union court.

(2) A union bench or a union court shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the bench or court, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(3) A union bench or union court shall not require any person living outside the union to give evidence, unless such a sum of money be paid to him as appears to the bench or court to be sufficient to defray his travelling and other expenses in passing to and from the bench or court and for one day's attendance.

(4) If any person whom a union bench or a union court summons by written order to appear or give evidence, or to produce any documents before it fails to obey such summons a union bench may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees.

Notes 1.—The act does not prescribe the manner in which witnesses and parties living outside the union shall be summoned. This will be done by rules under sec. 101 (2) (r). It may be presumed that

in suits before union courts, summonses to such witnesses and parties, will be served by registered acknowledgment post and that in trials before union benches they will be served through the union board of the union in which they are living, or through the president panchayat if there is no union board, or through the magistrate if the summonses have to be served within a municipality.

2. It may also be presumed that it will be prescribed by rule that, before a witness living outside the union is summoned, the union bench or union court will require the party at whose instance he is summoned to deposit his expenses under sub-section (3) and will cause that amount to be paid to him at the time the summons is served.
3. Under the Oaths Act (X of 1873) all witnesses, excepting in criminal cases the accused, must give their evidence before a union bench or union court on oath or affirmation. A Hindu or other person who objects to make an oath must make an affirmation.
4. As members of a union bench or union court are "public servants" within the meaning of section 21 of the Indian Penal Code, a witness who refuses to bind himself by an oath or affirmation when so required by a union bench or union court is guilty of an offence under section 178 Indian Penal Code.
5. Having made an oath or affirmation, a witness is legally bound to state the truth. If he refuses to answer any question demanded of him by the union bench or union court touching the subject matter of the trial he commits an offence under section 179, Indian Penal Code. (See p.)
6. As the provisions of sections 195 and 476 of the Criminal Procedure Code do not apply to proceedings or trials before a union bench or union court (of sec. 93) a union bench may, when an offence under 178 or 179, Indian Penal Code is committed before it, proceed at once to the trial of the offender. A union court should report such cases to the union bench for trial.

97. (1) The parties to cases triable by a union bench shall appear personally before such bench :

Appearance of parties before union bench or union court.

Provided that the union bench, if it sees reason so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

(2) The parties to suits triable by a union court may appear by agent.

"Agent" in sub-sections (1) and (2) means a full-time servant or a partner or a relative of the party,

whom the union bench or union court may admit as a fit person to represent a party, and who is authorized to appear and plead for such party.

(3) Notwithstanding anything contained in the Legal Practitioners Act, 1879, legal practitioners shall not be permitted to practise before a union bench or union court.

Notes 1.—A person making a complaint before a member of a union bench must appear personally; but a complaint may be made by a person other than the person injured.

2. Authority to appear and plead for a party need not necessarily be in writing. It is sufficient if the union bench or union court is satisfied that the person appearing for a party is authorised to represent such party in the case.
3. Legal practitioners include pleaders, muktars and revenue agents (Cf. Sec. 3. Legal practitioner's Act).
4. It is very important to keep away from union benches and union courts persons commonly called "village touts"—those unauthorised legal parasites who foment litigation and coach parties in the conduct of their cases. If such persons are allowed to appear, the proceedings of union benches and union courts will be a mere travesty of justice. The members of union benches and union courts should therefore firmly refuse to allow such persons to be present during the hearing of cases.

98. No woman shall, against her will, be compelled to appear in person before a union bench as an accused, or before a union bench or union court as a witness.

Appearance of women.

Note.—A woman need not appear against her will as complainant before a union bench (cf. note 1 under sec. 97) or as plaintiff before a union court (cf. sub-section (2), section 97.)

99. All fees and fines imposed and all sums due on bonds and all sums decreed and compensation awarded under this Act by a union bench or union court may be realized under the orders of the union bench or union court, as the case may be, in the same manner as an arrear of rate imposed under section 37.

Realization of fees, fines, etc.

80 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Note 1.—Expenses of witnesses.—In passing a decree, the union court must state the fees due on the suit and the amount paid as witnesses' expenses (cf. sec. 86). Under section 99 these amounts are leviable in the same manner as an arrear of union rate.

2. *Sums due on bonds.*—If an accused fails to carry out the terms of a bond executed under sub-section (3) of section 70 the bond is forfeited and the union bench should direct that the penalty of the bond be paid. If the accused does not pay when so ordered, the penalty is leviable in the same manner as an arrear of union rate.
3. *Period of Limitation.*—Rules will probably be made under section 101 (5) prescribing the period within which sums due may be levied under section 99.

100. Every union bench and union court shall
Register and Records. maintain such registers and records
and submit such returns as may
be prescribed by rules under section 101.

PART III
CHAPTER VIII.

MISCELLANEOUS.

101. (1) The Local Government may, after previous publication, make rules to carry out the purposes of this Act.

Power of Local Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

- (a) determining the manner and time of appointment or election of members of union boards, the action to be taken under section 6. subsection (4) in the case of the failure of an election, the registration of voters and candidates and the manner in which the votes shall be taken, and generally regulating all elections under this Act and determining the authority who shall decide disputes relating to such elections ;
- (b) fixing the time within which the elections of the president of a union board shall be held, and the time within which an election to fill a casual vacancy in such office shall be held ;
- (c) regulating the powers of union boards to transfer property ;
- (d) prescribing the powers to be exercised by the president or vice-president of a union board ;
- ✓(e) regulating the conduct of meetings of union boards and the method of forming a quorum ;

- (f) prescribing the registers and records to be maintained and the returns to be submitted by union boards, union benches and union courts ;
- (g) regulating the powers and duties of union boards in regard to the control to be exercised by them over dafadars and chaukidars within the union ;
- (h) prescribing the duties of dafadars and chaukidars, and fixing the time and manner of the payment by the union board of the salaries of dafadars and chaukidars, and the cost of their equipment ;
- (i) prescribing the processes to be served by dafadars or chaukidars, and regulating the service of such processes ;
- ✓(j) regulating the powers and duties of union boards in regard to sanitation, conservancy, drainage, buildings, roads, bridges and water-supply under sections 26, 27, 28, 29, 30, 31 and 35, and in regard to schools and dispensaries under section 32 ;
- (k) for the making of an assessment by the union board under section 39; for imposing the rate under section 37, and prescribing under section 41 the method and time of payment of such rate.
- (l) for the conduct of the distraint and sale of movable property of defaulters under section 42 ;
- (m) prescribing the method in which the accounts of the union fund shall be kept and audited ;
- (n) regulating the realization and disbursement, under section 54, of the amount required to meet the arrears therein specified ;

- (o) prescribing the manner in which orders under section 56 shall be published ;
 - (p) prescribing the particulars of petitions under sections 67 and 77 which shall be entered in the registers of union benches and union courts ;
 - (q) regulating the procedure to be followed by a union bench or a union court in the institution, trial and disposal of criminal cases and civil suits, and prescribing the method of forming a quorum ;
 - (r) regulating the issue, service or execution of summonses and other processes by union benches or union courts, and the issue and service of notices by union boards ;
 - (s) determining the procedure for the execution of decrees, orders and sentences of union courts and union benches ;
 - (t) regulating the transfer by union benches or union courts of summonses and other processes to ordinary courts for their service or execution by such courts ; and
 - (u) prescribing the fees to be levied by union benches and union courts for copies of documents, and determining the procedure to be followed in furnishing such copies.
- (3) The rules made under sub-section (2) shall be published in such manner as the Local Government may direct.

Note. Under section 24 of the Bengal General Clauses Act (I of 1899) the proposed rules must be published in draft form in the Calcutta Gazette and time allowed for persons concerned to make any objections or suggestions before the rules are made final. After they are made final, they will be again published under the provisions of sub-section (3) above.

84 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

102. No member of a union board, union bench or union court, or other officer having any duty to perform in connection with any sale under this Act, shall directly or indirectly bid for, or acquire any interest in, any property sold at such sale.

Members of union board, etc., not to bid for or buy property sold.

103. A judge or a magistrate shall not be deemed to be a party, to, or personally interested in, any case under this Act, within the meaning of section 556 of the Code of Criminal Procedure, 1898, merely because he is a member of the union board.

Membership not a bar to trial of cases

Notes. Sec. 556, of the Criminal Procedure Code prohibits a judge or magistrate from trying any case to which "he is a party" or in which he is personally interested." Under the present Sec. 103 it is provided that a judge or magistrate who is a member of a union board shall not, merely for that reason, be deemed to be "a party or personally interested." This makes it clear that a judge or magistrate is not precluded from trying a case merely because he is a member of a union board. A judge or magistrate should not, however, try a case in which the union board is a party, if he is president of the union board or if he caused the case to be instituted.

(Schedule I.—Enactments repealed or amended.)

SCHEDULE I.

ENACTMENTS REPEALED OR AMENDED.

(See section 2)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
✓ 1870	VI	The Village-chaukidari Act, 1870.	The whole except the preamble and section 1, 48 to 61 (Part II), 66, 67 and 69, and Schedules C and D, shall be repealed.

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 85

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1871	I	The Bengal Village-chaukidari Act, 1871.	The whole shall be repealed.
1885	I	The Bengal Ferries Act, 1885.	<p>For section 35, the following shall be substituted, namely :—</p> <p>“ 35. It shall be lawful for the Local Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated ; and such local authority shall have all the powers vested in the magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Local Government may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, any compensation received, under this Act in respect thereof, be paid to such local authority ; and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly.</p>

(Schedule I.—Enactments repealed amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
✓ 1885	III	The Bengal Local Self-Government Act of 1885.	<p>1. In section 5, for the definition of "local authority" the following shall be substituted, namely:— "local authority" means any district board, local board or joint committee constituted under this Act, or any union board constituted under the Bengal Village Self-Government Act 1919."</p> <p>2. In section 6,— (i) the second paragraph after the words "any subdivision" the words "or part of a subdivision or" shall be inserted, (ii) for the proviso to that paragraph the following shall be substituted, namely:— "Provided that a local board shall be established in every district or part of a district in which the Bengal Village Self-Government Act, 1919, is in force." and (iii) in the last paragraph for the words "subdivision or subdivisions" the word "area" shall be substituted.</p> <p>3. In section 7, the first proviso shall be omitted.</p> <p>4. For section 9, the following shall be substituted, namely:— "9 (1) Such proportion of the members of a local board as the Local Government may from time to time determine shall be qualified voters and members of local boards."</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self- Government Act of 1885 —contd.	<p>to time direct, shall be elected by persons entitled to vote at an election of members of a union board within the area under the authority of the local board within such time and in accordance with such rules as may be prescribed in this behalf under clause (a) of section 138:</p> <p>Provided that not less than two-thirds of the members of a local board shall be elected.</p> <p>(2) Every person who is qualified to vote at an election of members of a union board within the area under the authority of a local board shall be entitled to be a member of the local board if duly elected thereto."</p> <p>5. In section 11, for the words "One-third of the members of each local board established in a district mentioned in the third schedule of this Act" the words "The remaining proportion of the members of each local board" shall be substituted.</p> <p>6. In section 12, the words "or by three" in the two places where they occur and the words "or one-third, as the case may be" shall be omitted.</p>

88 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self- Government Act of 1885 — <i>contd.</i>	<p>7. Sections 13, 14 and 15 shall be repealed.</p> <p>8. In sections 18 and 18A, for the words "local board or union committee" the words "or local board" shall be substituted.</p> <p>9. Section 36 and the whole of Chapter II of Part I (sections 37 to 44) shall be repealed.</p> <p>10. At the end of clause (2) of section 52 the following shall be added, namely :— "except when levied by a union bench appointed under the Bengal Village Self-Government Act, 1919"</p> <p>11. For sub-clause (d) of clause <i>Fifthly</i> of section 53, the following shall be substituted, namely :— "(d) any sums assigned by the district board to a local board or to a union board constituted under the Bengal Village Self-Government Act, 1919."</p> <p>12. The whole of Chapter III of Part II (sections 56 to 58) shall be repealed.</p> <p>13. In section 62, after the words "under this Act" the words and figures "and to the provisions of the Bengal Village Self-Government Act, 1919" shall be inserted.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self Government Act of 1885 — <i>contd.</i> *	<p>14. In section 73, the following words and figures shall be omitted, namely :— “but subject to the provisions of Chapter III of Part III thereof.”</p> <p>15. In section 89, the following words shall be inserted at the beginning of the section, namely :— “Subject to the provisions of the Bengal Village Self-Government Act, 1919.”</p> <p>16. The whole of Chapter III of Part III (sections 104 to 119) shall be repealed.</p> <p>17. In section 130, the following shall be omitted, namely :— (i) in the first paragraph, the following :—“in respect of a union committee, by the district board or the local board to which the union committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate, and ” ; (ii) the whole of the second and third paragraphs, namely :— “When a local board makes any order under this section, it shall forthwith submit to the district board a copy of the order, with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self-Government Act of 1885— <i>contd.</i>	<p>The district board may thereupon confirm, modify or rescind the order"; and (iii) in the penultimate paragraph the words "or union committee."</p> <p>18. In section 131, the words "or union committee", occurring in two places, shall be omitted.</p> <p>19. In section 132, the following shall be omitted, namely:— (i) in the first paragraph, the words "or union committee" in the four places where they occur. (ii) in the second paragraph, the words "or committee" and (iii) the whole of the last paragraph.</p> <p>20. Section 133 shall be repealed.</p> <p>21. In section 138,— (1) the following shall be omitted, namely:— (i) in the first paragraph, the words "or union committee". (ii) in clause (a) the following words namely:— "and the qualifications and disqualifications of such members, and the qualifications and disqualifications"; (iii) clauses (q) and (q1) (q) and (q1) and (iv) the whole of the last paragraph; (2) at the end of the said clause • (a) the following shall be added, namely.—</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>concl'd.</i>	The Bengal Local Self-Government Act of 1885— <i>concl'd.</i>	<p>"and in the case of district boards the qualifications and disqualifications of members";</p> <p>(3) in clause (t) for the words "district boards, local boards and union committee" the words "district boards or local boards" shall be substituted.</p> <p>22. In section 142, for the words "local board or union committee" the words "or local board" and for the words "union committee, local board, or district board" the words "district board or local board" shall be substituted.</p> <p>23. In section 144, for the words "local authority," wherever they occur, the words "district board or local board" shall be substituted.</p> <p>24. In section 145, for the words "Every local authority" the words "The district board" and for the words "the district or union funds respectively," the words "the district fund" shall be substituted.</p> <p>25. In section 146, in the first paragraph, the words "or union committee" and, in the two places where they occur, the words "or committee" shall be repealed, and the word "or" shall be inserted after the words "district board."</p> <p>26. The whole of the third schedule shall be repealed.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1886	1	The Bengal Village-chaukidari (Amendment) Act, 1886.	The whole shall be repealed.
1892	1	The Bengal Village-chaukidari (Amendment) Act, 1892.	The whole shall be repealed.

Note.—The Acts amended by the above schedule are printed below viz :—

The Village Chaukidari Act, 1870, on pp

The Bengal Ferries Act, 1885, on pp

The Bengal Local Self-Government Act of 1885, on pp.

(Schedule II.—Offences to be reported by a chaukidar.)

SCHEDULE II.

OFFENCES TO BE REPORTED BY A CHAUKIDAR.

(See section 23.)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupefying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a license and going armed without a licence, and all attempts, preparations and conspiracies to commit, and abetments of, the said offences.

(Schedule III.—Powers and duties which may be delegated by the district magistrate.)

SCHEDULE III.

POWERS AND DUTIES WHICH MAY BE DELEGATED BY THE DISTRICT MAGISTRATE.

(See section 47.

Powers or duties.	The whom may be delegated.
1	2
1. Appointment and dismissal of dafadars and chaukidars under section 20 ...	Subdivisional magistrate, superintendent of police or circle officer.
2. Fining of dafadars and chaukidars under section 22 ...	Ditto ditto.
3. Requiring chaukidar to supply local information under section 23 (viii)	Subdivisional magistrate.
4. Calling for assessment papers and passing of orders thereon, under section 40 ...	Ditto ditto.
5. Issue of warrant section 43 for distraint and sale of property of absentees for satisfaction of union rate ...	Ditto ditto.

(Schedule IV.—Offences triable by a union bench).

SCHEDULE IV.

OFFENCES TRIABLE BY A UNION BENCH.

(See sections 65 and 66.)

PART A.

1. Offences under sections 24, 26, and 27 of the Cattle-trespass Act, 1871.
1 of 1871.
2. Offences under enactments (other than the Indian Penal Code) or any rules or by-laws made thereunder which are punishable with fine only up to a limit of twenty-five rupees.
Act XLV of 1860.
3. Offences under section 34 of the Police Act, 1861.
V of 1861.
4. Offences under the Bengal Ferries Act, 1885 except those under sections 28 and 30.
Ben. Act I of 1885.
5. Offences under the following sections of the Indian Penal Code, namely:—sections 160, 178, 179, 269, 277, 289, 290, 294, 323, 334, 341, 352, 358, 426, 447, 448, 504 and 510; and when the value of the property in the opinion of the union bench is not over twenty rupees, sections 379 and 411.
Act XLV of 1860.

PART B.

Offences under the following sections of the Indian Penal Code namely:—sections 283, 428, 430, 506 and 509; and when the value of the property in the opinion of the magistrate is not over twenty rupees, section 403.

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 95

Notes. The Cattle Trespass Act, 1871, the Bangal Ferries Act, 1885 and Sec. 34 of the Police Act, 1861, will be found further on . .

2. The Sections of the Indian Penal Code referred to in this schedule are printed hereafter . . .
3. Offences which a union bench may have to try, under paragraph 2 of Part 1 of this schedule fall mainly under the following heads, viz :—
offences under sections 30 (4) and 96 (4) of this Act

Breaches of such district board by-laws as are punishable with fine not exceeding Rs. 25/-

Offences under sections 10 and 12 of the Bengal Primary Education Act if extended to the union.



The Village Chaukidari Act 1870.

(BENGAL ACT VI OF 1870).

(As Modified up to the 31st December 1919 in areas to which the Bengal Village Self Government Act is extended).

An Act to provide for the appointment, dismissal and maintenance of village-chaukidars.

WHEREAS it is expedient to make provision for the appointment, dismissal and maintenance of village-chaukidars in the provinces subject to Lieutenant Governor of Bengal. It is enacted as follows :—

1. The following words and expressions shall, in the construction of this Act, have the several meanings hereby as signed to them respectively, except where a different intention shall appear from the context (that is to say) :—

The words " District Magistrate " shall mean the chief officer charged with executive administration of a district in criminal matters, by whatsoever designation such officer is called :

* * * * *

The word " chaukidari chakran lands " shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a zamindar :

The word " zamindar " shall mean the person whose name is registered in the general register of

estates paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

* * * * *

Note.—Sections 2 to 47 have been repealed. (of schedule I, Bengal Village Self-Government Act.)

Part II

CHAUKIDARI CHAKARAN LANDS.

48. All chaukidari chakaran lands before the passing of this Act assigned for the benefit of any village in which a panchayat shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the zemindar of the estate or tenure within which may be situate such lands.

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the panchayat of the village.

50. Such assessment when made by the panchayat shall be submitted to the collector of the district, and he or any other officer exercising the powers of a collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the zamindar contest the assessment before it is so approved), and after such approval the collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such zamindar such land subject to the assessment so approved.

51. Such order shall operate to transfer to such zamindar the land therein mentioned subject to the

98 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the zamindar may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the panchayat yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the panchayat shall forward to the Collector of the district in which the land so assessed is situate, notice of the amount of such arrear and the name of the person liable to pay such assessment, in the form in Schedule D annexed to this Act.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed, without any preliminary notice for payment, to issue a notification for sale under section 6 of Act XI of 1859, passed by the Legislative Council of India ;

and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council

and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the panchayat, within one week after such sale shall have become final, the amount due for arrears of such assessment and pay the balance of such proceeds to the person named in the notice from the collecting member of the panchayat as the person liable to pay the assessment of such land.

57. When any land shall have been transferred to any zemindar under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the Lieutenant-Governor of Bengal, by an order to be published in the Calcutta Gazette, to appoint a commission consisting of one or more persons, to ascertain and determine the chaukidari chakaran lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

59. Whenever in any district in which such commission shall have been appointed, any question shall arise whether any or what lands are chaukidari chakaran lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for such commission to enquire into such question.

60. In inquiring into such question the commission shall, as far may be necessary, for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822 and the Regulations and Acts amending the same upon a collector making a settlement of land-revenue.

61. Such commission shall demarcate the boundaries of any lands which they may determine to be chaukidari chakaran lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be chaukidari chakaran lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such land be or be not chaukidari chakaran lands or other lands as aforesaid.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

Note. Sections 62 to 65 have been repealed (cf. Schedule I, B. V. S. G. Act, 1919),

* * * * *

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any zamindar, under any law in force at the time of the

passing of this Act to report crimes or offences occurring within his estate or tenure.

67. Nothing in this Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a panchayat may not be appointed, of an officer to keep watch in such village and to report crime to the police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him appointed, as if this Act had not been passed.

69. This Act may be called the Village Chaukidari Act, 1870.

SCHEDULE C.

(Referred to in section 50.)

Form of Transferring Order.

District of
I, Collector of
do by this order under my hand made in
pursuance of Act VI of 1870, passed by the Lieutenant-
Governor of Bengal in Council, transfer to
, zamindar of , the
chaukidari chakaran lands of the village of
, in the said bounded
and containing
bighas cattahs; to hold unto the said
his heirs and assigns subject to an annual assessment
of rupees payable under the provisions
of the said Act to the chaukidari fund of the said village
and also subject to all contracts binding the said
in respect of any lands, portion of the said
situated within the said village.

The

day of

18 .

Sd/. J. S.
Collector of

SCHEDULE D.

(Referred to in section 54.)

Form of Notice of Arrears of Assessment on Land.
Panchayat of

To A.B., Esq., Collector

Sir,

I hereby notify to you that the sum of Rs. being
for one year's assessment payable in respect of the
chaukidari chakaran lands of this village transferred
to the zamindar of became due on the
 day of and that the same
is still unpaid, and that of is the
person liable to pay such assessment.

The day of

Sd/. E. F.

Collecting Member of Panchayat.

DUTIES OF VILLAGE HEADMEN.

District Magistrates may appoint village headmen and headmen so appointed exercise the powers and are required to perform the duties imposed on them by law. Of these the most important are contained in section 45 of the Criminal Procedure Code and the Rules made by Government under the Criminal Tribes Act.

CRIMINAL PROCEDURE CODE.

45. 1. Every village-headman, village-accountant, village-watchman, village-police

Village-headman, accounts, land-holders and others bound to report certain matters.

officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or

the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is the nearer, any information which he may obtain respecting.

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police officer, or in which he owns or occupies land, or is agent, or collects revenue or rent ;
- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender ;
- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under sections 143, 144, 145, 147 or 148 of the Indian Penal Code ;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances ;
- (e) the commission of, or intention to commit, at any place out of British India near such village, any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 502, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;
- (f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

2. In this section—

- (i) “village” includes village-lands ; and
- (ii) the expression “proclaimed offender” includes any person proclaimed as offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 447, 458, 459 and 460.

3. Subject to rule in this behalf to be made by the

Appointment of village-headman by District Magistrate in certain cases for purposes of this section.

Local Government the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of the section in any village for which there is no such headman appointed under any other law.

Notes—So far as chaukidars are concerned the provisions of this section [with the exception of clause (e)] are embodied in section 23 of the Village Self-Government Act which increases the scope of the chaukidar's duties without exempting him from the provisions of clause (e) or any other part of this section.

2. The provisions of this section will not extend to the President or Members of a Union Board unless they are appointed under sub-section (3), to be village headmen. See additional note A under section 26, Village Self-Government Act.

3. For the definition of “proclaimed offender” see note under section 23(ii) (c), V. S.-G. Act.

4. For the definition of “non-bailable offence” see note under section 4(11), V. S.-G. Act.

5. As regards clause (c), see additional note C under section 26 V. S.-G. Act.

DUTIES OF VILLAGE HEADMEN AND CHAUKIDARS UNDER THE CRIMINAL TRIBES ACT, (III OF 1911).

In almost every district there are to be found tribes or gangs of habitual criminals. A prosecution of a member of one of these gangs under section 145 Criminal Procedure Code has the defect that it only has force for 3 years at the most after which the criminal, probably still unreformed, is free to resort to his former mode of living. To make better provision for the reformation of such persons, keeping them under such control that the property and lives of honest people may not be endangered, the Criminal Tribes Act was passed in 1911 and rules under that Act have been made subsequently. The Local Government may order every member of a criminal tribe to be registered and after registration to report himself at fixed intervals or notify his place of residence, or any change or intended change of residence. If it is thought expedient a criminal tribe may, with the sanction of the Government of India, be "settled" *i.e.* confined to a specified area and within that area an industrial, agricultural or reformatory settlement or school may be established. Provision is made for the erasure from the register the name of any person who, at any time, satisfies the District Magistrate that he has reformed his character or that the retention of his name is unnecessary. Penalties are provided for members of criminal tribes who break rules made under the Act and village headmen and chaukidars are required to assist the District Magistrate and the police in giving effect to the Act and rules. The following note is published to provide members of union boards with a summary in handy form of the sections of the Act and rules which specify the duties imposed on headmen and chaukidars of villages.

2. A body of persons banded together or in association and addicted to the systematic commission of non-bailable offences (cf. Registration. note under sec. 4 (11) Village Self-Government Act) may be notified by the Local Government as a criminal tribe, and thereupon the District Magistrate may publish a notice ordering the members of that criminal tribe or of any part of the tribe to appear and be registered. A copy of the notice shall, if possible, be served on the members of the criminal tribe concerned; the notice shall also be publicly read out in a conspicuous part of the village where such persons reside and affixed to a conspicuous part of such village, copies shall also be affixed to a conspicuous part of the court-house and police-station concerned, and lastly "a copy of such notice shall be served on the headman or headmen of the village or villages in which such members reside, and thereupon such headman or headmen shall cause the contents of such notice to be proclaimed in the village by word of mouth and made known to the chaukidars and landowners of the said village and their agents." It is explained that "in the case of wandering criminal tribes having no fixed residence or place of abode, the place of residence shall be deemed to be the place where all or some members of such tribes sleep even if they remain at such place only one night" (cf. Notification No. 111 dated the 6th January, 1913.) If, after making the register of a criminal tribe, the District Magistrate proposes to add the name of any other person to the register, a notice shall be published in the same way as prescribed for the original notices. Every village head-man and village chaukidar is required to give to the officer in charge of the nearest police-station immediate information concerning any member of a criminal tribe who fails to appear as directed in the District Magistrate's notice (sections 26 and 27 Criminal Tribes Act).

3. To keep the District Magistrate and police in touch with a criminal tribe, the Local Government, may order that every registered member of a specified criminal tribe shall report himself at fixed intervals to the police-station. Such intervals will be weekly or fortnightly according to the distance of their places of residence from the thana and the days for their attendance will be fixed by the Superintendent of Police. If on the day fixed for his appearance any registered member of a criminal tribe is prevented by sickness or other infirmity from reporting himself, he shall give immediate intimation of his inability to do so to the village watchman (Rule 4(4) of notification above quoted).

4. The Local Government may also order that every registered member of a criminal tribe shall notify any change of residence and any absence or intended absence from his residence. No such person shall absent himself from his residence for one or more nights without personally giving previous intimation to the officer-in-charge of the police-station nearest to the place at which he is than residing. He must also intimate the probable dates of his arrival at and departure from each of the place to which he intends to proceed. On arrival at each of his destinations he must report himself at once to the village head-man or, where there is no head-man, the village chaukidar or to the officer-in-charge of the nearest police-station or outpost (Rules 4 (4) and 4 (5) of Notification above quoted).

5. If the Government by notification restricts the movements of a Criminal tribe to a specified area (which may or may not be a settlement established for the purpose), no registered member of such tribe shall leave such area without having obtained a pass from the officer-in-charge of the police-station or the manager

of the settlement, except that he may go outside the area to appear at the police-station or before a magistrate having jurisdiction in the matter to complain of an offence affecting himself or his family or to apply for a pass, provided that he gives notice of his intended departure to the headman or chaukidar of his village (Rule 3 Part II, Notification No. 2067 P, dated 2-3-15). A registered member of a tribe whose movements have been restricted may be granted leave of absence from the prescribed area by the officer-in-charge of the police-station or the Superintendent of Police and will be furnished with a pass. During his absence from the prescribed area he must report himself to the headman or chaukidar of every village at which he halts for a night. If he takes up his residence temporarily at any place, he must report himself to the officer-in-charge of the police-station at intervals of seven days if the police-station is within 10 miles, and intervals of 14 days if the police-station is more than 10 miles from his place of temporary residence. He must continue to do this until he returns to his home in the prescribed area; but if on any occasion he is prevented from reporting himself by any genuine cause such as serious illness, he must give immediate information to the village choudidar. So long as he is away from the prescribed area he must carry with him his pass and must show it to any village headman, police-officer, or magistrate who may demand its production. The period for which leave has been sanctioned and the other conditions subject to which it has been granted shall be specified on the pass (Rule 7, Part II, Notification No. 2067 P dated 2-3-15).

6. A village headman may be empowered by the District Magistrate, Superintendent of Police, or Subdivisional Magistrate to visit a Settlement established under the Criminal Tribes Act (Rule 13, Part I,
- Other powers with which headmen may be vested.

Notification 2067 P dated 2-3-15) and, where the movements of a Criminal Tribe have been restricted without a Settlement being established, the members of the criminal tribe shall attend before the officer-in-charge of the police station at such times and places as such officer-in-charge may direct. (Rule 8, Part II Notification abovesited).

7. The penalties to which a village headman or chowkidar becomes liable if he fails to carry out the duties imposed on him by the Act and the rules above quoted are stated in the following sections ;—

Statutory duties
of headmen and
Chowkidars.

26 (1) Every village headman and village watchman in a village in which any person belonging to a criminal tribe resides, and every owner or occupier of land on which any such persons reside, or the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police-station any information which he may obtain of

(a) The failure of any such person to appear and give information as directed in section 5; or

(b) The departure of any registered member of a criminal tribe from such village or from such land (as the case may be).

2. Every village headman and village watchman in a village and every owner or occupier of land or the agent of such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest Police Station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any person who may reasonably be suspected of belonging to any Criminal tribe.

27. Any village headman, village watchman, owner or occupier of land of the agent of such owner or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the 1st part of Section 176 of the Indian Penal Code."

Failure to report the arrival or departure of a member of a criminal tribe may also be held to be a breach of clause (f), sub-section (1), section 45, Criminal Procedure Code; but it may be expected that for the peace and security of their own villages, the headmen and Chowkidars will not need the spur of fear of penalties to do all that lies in their power to keep criminal tribes under effective control.

28. Village headmen and Chowkidars have also been vested with special powers of arrest without warrant under the following sections of the Criminal Tribes Act, viz. :—
 Special power of headmen and Chowkidars to arrest without warrant. "25 (1) Whoever, being a registered member of a Criminal Tribe,—

- (a) is found in any part of British India beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass : or
- (b) escapes from an industrial, agricultural or reformatory settlement or school, may be arrested without warrant by any police officer, village headman, or village watchman and taken before a magistrate, who on proof of the facts, shall order him to be removed to the district in which he ought to have resided or to the Settlement or school from which he has escaped (as the case may be), there to be dealt with in accordance with this Act or any rules made thereunder."

THE BENGAL PRIMARY EDUCATION ACT, 1919
BENGAL ACT NO. IV OF 1919.

An Act to the provide for the extension of primary education in Municipalities and in certain other areas in Bengal.

WHERE as it is expedient to provide for the extension of primary education in Municipalities and incertain other areas in Bengal ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY

Short title and extent.

1. (1) This Act may be called the Bengal Primary Education Act, 1919.

(2) It extends in the first instance to all Municipalities in Bengal :

Provided that the Local Government may, by a notification published in the Calcutta Gazette, extend the provisions of this Act, with such modifications, for the purposes of adaptation, as they may deem fit, to any area in a Union constituted under section 38 of the Bengal Local Self-Government Act of 1885, and may authorize the Union Committee for such area to exercise and perform all or any of the powers and duties conferred and imposed on the Commissioners by this Act, subject to such control by the Dissrict or Local Board as the Local Government may prescribe.

Bengal Act III of 1885

Notes.— This Act was passed before the Village Self-Government Act. The provision should now be extended to any area declared to be a union under section 5 of the Village Self-Government Act, and to the union board for that area.

112 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

2. Any union committee or union board may apply to the district board or district magistrate to recommend to Government to extend to that union the provisions of this Act.

3.—In extending this Act to union boards the following substitutions should be made viz:—

for the word "Municipality" the word "union"	
„ „ words "Municipal Commissioners"	} the words "union board"
or "Commissioners"	

Definitions. 2. In this Act, unless there is any thing repugnant in the subject or context.

(1) "To attend recognized primary school" means to be present for instruction at such school for so many and on such days in the year and at such time or times on each day as may be prescribed by the school Committee for such school, subject to the rules and orders of the Education Department of the Local Government ;

(2) "Commissioners" means the persons for the time being appointed or elected to conduct the affairs of a Municipality.

(3) "Guardian" includes a parent or any person who is liable to support, or has the custody of, a boy not being less than six or more than ten years of age ;

Bengal Act III of 1889	(4) "Municipality" means Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899, or any place in which the Bengal Municipal Act, 1884, is in force ;
Bengal Act III of 1884	

(5) "Primary education" means such elementary education as may be prescribed from time to time for primary schools by the Education Department of the Local Government ;

(6) "Recognized primary school" means a school (or a department of a school) appropriated to primary education and for the time being recognized by the Education Department of the Local Government for the purposes of such education ; and

(7) "School Committee" means a committee constituted under section 7.

PART II.

Voluntary Primary Education.

Statement to be
submitted by
Municipalities

3. Within one year from the commencement of this Act or within such other period as may be prescribed by the Local Government in this behalf, the Commissioners shall submit to the Local Government a detailed statement, in such form as may be prescribed by the Local Government, containing the following particulars in respect of the Municipality :—

- (a) (i) the number of children, not being less than six or more than eleven years of age, within the Municipality ;
- (ii) the number of boys, not being less than six or more than ten years of age, therein ;
- (b) the school accommodation, the staff of and the attendance at, existing primary schools ;
- (c) the school accommodation, staff and equipment required if suitable and adequate provision were to be made for the primary education of—
 - (i) all children referred to in clause (a) (i) likely to attend primary schools voluntarily ; and
 - (ii) all boys referred to in clause (a) (ii)

(d) the manner in which and the periods within which it will be possible to provide the necessary school accommodation, staff and equipment referred to in clause (c) under the direct management and control of the Municipality ;

- (e) the existing expenditure incurred by the Municipality on primary education and the expenditure to be incurred yearly in order to provide such school accommodation, staff and equipment ;
- (f) the receipts already available, and the income including the probable receipts from any education cess that may in future be levied under section 17, which it may be estimated will be available to meet such expenditure ; and
- (g) the amount of grant or assistance from the Government which the Commissioners consider would be necessary to enable them to provide for primary education within the Municipality, or part thereof.

Notes. 1.—A union board can obtain most of the advantage, of this Act, except the power to enforce compulsory education, by exercising its powers under sec. 32 of the Village Self-Government Act.

2. As a preliminary step, every union board should ascertain for its own information

- (1) the total number of boys in the union not more than 10 years old, and the number who are regularly attending school,
- (2) the total number of boys in the union more than 10 years but not more than 11 years old, and the number who are regularly attending school.
- (3) the total number of girls in the union not more than 11 years old and the number who are regularly attending school.

3. The union board should then devise provision of school teachers, school houses and equipment so that

all in class (1) and as many as possible in classes (2) and (3) may be taught to read and write and keep simple accounts in their own language.

4. When this provision has been made for class (1) completely the union board will have achieved a great improvement. They may then appropriately apply to the Government for a grant to enable them to provide for classes (2) and (3) and to make education compulsory for boys up to 10 years of age.

5. The union board may pay from the union rate for any extension of primary schools (cf. sec. 32 Village Self-Government Act). In this way the trouble of an additional cess for education can be avoided.

4. The Local Government, after considering the statement required by section 3 and the conditions and resources of the Municipality, and after determining the amount of financial assistance from the Government which may be necessary in order to provide for primary education within the Municipality, may, if satisfied that the Municipality is able to meet the expenditure involved, direct the Commissioners to provide the necessary school accommodation staff and equipment for all children, not being less than six or more than eleven years of age, likely to attend primary schools voluntarily within the Municipality and to assume the direct management and control of all such schools.

Commissioners
to make provi-
sion for primary
education.

Note.—Government will not issue a direction to a union board under this section unless satisfied that the union board, with the help of a grant from the State, is able to provide education for all children of both sexes up to 11 years of age.

PART III.

Compulsory Primary Education.

5. The provisions of this Part shall not come into operation until a notification has been issued under section 6, sub-section (2).

Operation of
Part III.

6. (1) If, after complying with the directions of the Local Government under section 4, the Commissioners are of opinion that the primary education of all boys, not being less than six or more than ten years of age, should be made compulsory within the Municipality, or any part thereof, they may apply to the Local Government, in such manner as may be prescribed by rules made by the Local Government, for permission to introduce therein compulsory primary education for such boys.

(2) The Local Government, after considering the application and after determining the financial assistance from the Government which may be necessary to provide for compulsory primary education within the Municipality, shall, if satisfied that the Municipality is able to meet the expenditure involved, grant the permission asked for, and the Commissioners shall thereupon cause a notification to be issued declaring that primary education shall be compulsory for all such boys within the Municipality, or any part thereof, as the case may be.

(3) Every notification issued under this section shall be published in the Calcutta Gazette and in the local newspapers, if any, and shall be posted up at the Municipal office and at such other places, as the Commissioners shall deem necessary, specifying the date on and from which primary education shall be compulsory within the Municipality, or any part thereof.

(4) No notification shall be issued by the Commissioners under this section except in pursuance of a resolution passed at a special general meeting convened for the purpose and at which not less than two-thirds of the total number of Commissioners are present.

Note.—Primary education can only be made compulsory for boys between 6 and 10 years of age, and then only after a union board has been directed to provide teachers, school-houses and equipment for every boy and girl in the union up to 11 years of age, and only after the union board at a special meeting, attended by at least two-thirds of the members, has passed a resolution in favour of such compulsory education.

7. When a notification has been issued in any Municipality under section 6, sub-section (2) the Commissioners shall appoint a School Committee, to be constituted in such manner as may be prescribed by rules made under section 15 :

Provided that a Deputy Inspector or a Sub-Inspector of Schools, at least one Commissioner and one or more residents of the Municipality, other than a Commissioner, shall be members of the Committee.

8. (1) In every area to which the provisions of this Part apply, it shall be the duty of the guardian of every boy, not being less than six or more than ten years of age, residing within that area to cause such boy to attend a recognized primary school unless, in the opinion of the School Committee, there is a reasonable excuse for his non-attendance.

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section :—

(a) that there is no recognized primary school within a distance of one mile, measured by the shortest route, from the residence of the boy which he can attend, and to which the guardian has no reasonable objection to send the boy ;

(b) that the boy is prevented from attending the school by reason of sickness, infirmity, domestic necessity, the seasonal needs of

agriculture or of his being the sole breadwinner of his family ;

(c) that the boy is receiving education in some other satisfactory manner.

9. (1) If the School Committee is satisfied that a guardian who is required under section 8 to cause a boy to attend a recognized primary school, has failed to do so, it shall, after giving a warning in writing to such guardian, apply to a Magistrate for an order to compel the guardian to enforce the attendance of such boy ; and the Magistrate shall fix a day for the hearing of the application, and cause notice thereof to be given to such guardian.

Order of Magistrate to compel attendance.

(2) On the day fixed for the hearing of the application or on any subsequent day to which it may be adjourned, and after hearing the guardian or his authorized agent, if present, the Magistrate, if satisfied that the facts alleged in the application are true, may pass an order directing the guardian to cause such boy to attend a recognized primary school from a date to be specified in such order.

Notes.—1. See definition of "guardian" in section 2.

2. The powers of a magistrate under section 9 might well be extended to a union bench. It will be noted that a union bench is empowered to pass a sentence under sec. 10 (cf. item 2, schedule IV. Village Self-Government Act).

10. (1) Any guardian who fails to comply with an order passed under section 9 shall, on conviction before a Magistrate, be liable to a fine not exceeding five rupees, and also to a recurring fine not exceeding one rupee for each day after the first during which he continues so to offend.

Penalty for failure to obey order.

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 118a

(2) No Magistrate shall take cognizance of an offence under this section except on the complaint of the School Committee.

Note—See notes under section 9.

11. No person shall, without the permission of the School Committee, employ any boy, not being less than six or more than ten years of age, who is required to attend a recognized primary school under this Part :

Prohibition
employment
boys.

Provided that such permission shall not be necessary if the employment of the boy does not interfere with his attendance at such school.

12. (1) The School Committee may prosecute any person who, after due warning, contravenes the provisions of section 11.

Employer's
liability.

(2) Unless such person satisfies the Magistrate that there is a reasonable excuse, within the meaning of section 8, sub-section (2), for the non-attendance of the boy, or that the time and nature of employment of the boy are such that he is not prevented from attending a recognized primary school, or that the boy was taken into employment under false representations as to age, residence and other conditions, such person, shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees.

Note.—A case under this section is triable by a union bench.

13 An application to a Magistrate under section 9 or a complaint to a Magistrate under section 10 or section 12, may be made on behalf of the School Committee by such person as may be authorized by the School Committee by general or special order in this behalf.

Delegation of
some of the
functions of the
School Com-
mittee.

14. When primary education has been made compulsory in any Municipality, or any part thereof, if a guardian, who is required under provisions of this Part to cause a boy to attend a recognized primary school, satisfies the School Committee that he is unable to pay the fees or any part of the fees ordinarily charged in such school, such boy shall be admitted to such school free of charge, or at such reduced fees as the School Committee may determine, for the period during which the guardian is required to cause the boy to attend a recognized primary school.

15. The Commissioners may, with the previous sanction of the Local Government, make rules prescribing—

(a) the manner in which the School Committee shall be constituted, the number of its members, its duties and its mode of transacting business ;

(b) the steps which the School Committee may take to secure the attendance of boys at school.

16. The Local Government may, by notification in the the *Calcutta Gazette*, exempt any class of persons or any community, in any area to which this Act extends, from the operation of this Part.

PART IV.

Education Cess.

17. (1) If the existing resources of any Municipality including any grant from the Government, are not sufficient to cover the cost of primary education within the Municipality, the Commissioners may, with the previous

sanction of the Local Government, impose a tax, to be called the "education cess"; and all amounts derived therefrom shall be devoted solely to the purposes of primary education, whether voluntary or compulsory, within the Municipality.

(2) An education cess shall not be imposed unless the Commissioners by a resolution, passed at a special general meeting convened for the purpose and in favour of which two-thirds of the Commissioners have voted, determine to impose such cess.

(3) The education cess shall be levied in such manner as may be prescribed by rules made by the Local Government, and the cess so levied shall be a rate amounting to the sum required, after deducting the Government grant, the school receipts and the receipts from endowments and contributions, to meet the expenditure on primary education, together with ten *per cent.* above such sum to meet the collection charges and the probable losses due to non-realization from defaulters.

Note—In a union under the Village Self-Government Act there is no need for a separate education cess. The cost of primary education can be met from the union rate.

PART V.

Supplemental.

18. (1) The Local Government may, after previous publication, make rules to carry out the purposes of this Act.

Power of Local Government to make rules.

118d THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the manner in which—

(a) applications under section 6, sub-section (1), shall be made ; and

(b) the education cess shall be levied.

(3) All rules made under this section shall be published in the *Calcutta Gazette*.

19. All primary schools maintained by the Commissioners within a Municipality, or any part thereof, under the provisions of this Act shall be open to inspection free of any charge by the inspecting officers of the Education Department of the Local Government and such other persons as the Local Government may appoint in this behalf.

Schools to be open to inspection.

20. Every person authorized by the School Committee under section 13, and every officer and servant of the School Committee, shall be deemed to be a public servant with the meaning of section 21 of the Indian Penal Code.

Certain person to be deemed public servants.
Act XLV of 1860.

21. When, in the opinion of the Local Government, the Commissioners have made default in any of the requirements of Part III of this Act, the Local Government may, after considering any explanation of the Commissioners, by a notification in the *Calcutta Gazette* stating the grounds of such order, cancel any notification which has been issued under section 6, sub-section (1).

Withdrawal of notification on default.

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 118e

CATTLE TRESPASS ACT.

Act No. 1 of 1871.

*An Act to consolidate and amend the law relating to
trespasses by cattle.*

WHEREAS it is expedient to consolidate and amend
the law relating to trespasses by cattle : It
Preamble. is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Cattle—Trespass Act, 1871" and (2) It extends to the whole of British India except the Presidency—towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

Note.—The Act extends to all districts in the province of Bengal but not to the town of Calcutta.

2. The Acts mentioned in the Schedule hereto annexed are repealed.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

All pounds established, pound-keepers appointed, and villages determined, under Act No. III of 1857 (*relating to trespasses by cattle*), shall be deemed to be, respectively established, appointed, and determined under this Act.

3. In this Act :—
"Officer of Police" includes Village Watchman, and "Cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids and

"Local authority" means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

"Local fund" means any fund under the control or management of a local authority.

Notes.—Chaukidars and dafadars (who are head chaukidars) have the powers and duties assigned to an officer of police by this Act.

2. In this Act, the term "local authority" includes a union board a district board and also a local boards.

CHAPTER II.

POUNDS AND POUND-KEEPERS.

Notes. (1)—In unions for which union committees have been constituted under section 38 of the Local Self-Government Act, the Government has transferred to the union committees all the functions of the District Magistrate under chapters II and III of this Act within the respective unions and, for all areas not included within any such union or within any municipality has transferred the said functions of the District Magistrate to the respective district boards (cf. Notification No. 3174. T. M. dated the 16th August, 1913). When union boards are constituted under Section 11 of the Village Self-Government Act, the said functions of the District Magistrate within the respective unions will be transferred to the union boards.

(2), On the transfer of the functions of the District Magistrate to the union board, the union board will manage the existing pounds and may establish new pounds and fix the charges to be made for feeding and watering impounded cattle.

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

Establishment of Pounds.

The Village by which every pound is to be used shall be determined by the Magistrate of the District.

Notes (1).—Wherever cattle trespass is frequent, there should be a pound within a reasonable distance, say, one mile or at the most two miles.

(2). It is desirable that a new pound should not be opened at any time other than the beginning of the year and that public notice of the intention to open such pound should be given. If any objections are raised, the union board should consider them before the pound is opened and should endeavour to avoid injuring the pounds of neighbouring unions, except in so far as the convenience of the residents of the union make it necessary that they should have a pound near to them. By not opening a pound except at the beginning of the year the union board will avoid having to decide difficult questions regarding compensation to lessees of neighbouring pounds.

5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Control of pounds
Rates of charge.
for feeding im-
pounded cattle.

Notes 1.—It is open to the local authority in charge of pounds either to manage them through its own officers or to leave them out.

The practice at present is that the leases of pounds are put up to auction by the district board or union committee and the highest bidder, if he is known to be a reliable person, is appointed pound-keeper and executes a kabuliyat agreeing to carry out the duties of pound-keeper and to pay by instalments the amount at which he bought the lease.

2. The period of the lease is usually one year, but Government has expressed an opinion that it is desirable that persons of known position and solvency residing close to the pound should be granted leases for longer periods.

3. When pounds are leased by district boards, the rent is generally made payable, by 12 monthly instalments in advance and security to the amount of one fourth of the annual rent is also taken from the lessee. These conditions are very severe and cannot be enforced in practice. It would seem more convenient that the rent should be made payable quarterly in advance and that the advance payment should be treated as security. For pounds leased by union boards or union committees a simple form of kabuliyat will suffice. The following form is suggested :—

Kabuliyat.

I son of of village in
the union of having been appointed by the
Union Board of Union pound-keeper of the
pound hereby agree to pay as rent the sum of Rs.
per annum for the right to appropriate to my own use
the pound fine and feeding charges for year (s)
from the day of to the day of . I have
to day paid to the Union Board Rs. being one
fourth of the said annual amount and I agree to pay the
remainder by quarterly instalments in advance, namely,

Rs.	by the last day	of Ashar	B. S.
R. S.	"	" Asvin	B. S.
Rs.	"	" Paush	B. S.
*			*

I further agree that so long as I am pound-keeper, I will keep the pound enclosure and shed in good repair and clean condition, that I will provide good and sufficient food and water for the impounded cattle, that I will not allow any impounded animal to escape, that I will not pay any gratification to anyone bringing cattle to the pound and that I will duly carry out all the duties of a pound-keeper under the Cattle Trespass Act. In the event of my breaking any of the covenants herein contained, the Union Board shall be at liberty to remove me from the office of pound-keeper and this lease shall thereupon determine and the Union Board shall be at liberty to resell the pound and I shall forfeit without objection all the rent paid by me in advance.

4. The pound kabuliyat is a bond, as defined in the Indian Stamp Act, (II of 1899). Under article 15, schedule I of that Act. the kabuliyat must be stamped. The value of the stamp will be
where the annual rent of
pound does not exceed Rs. 10 ... two annas
where it exceeds Rs. 10 and does not exceed

Rs. 50	...	...	...	four annas
Do.	do.	Rs. 50	do.	Rs. 100 ... eight annas
Do.		Rs. 100	do.	Rs. 200 ... one rupee
Do.	Rs. 200	do.	Rs. 300	one rupee, eight annas
Do.		Rs. 300	Rs. 400	... two rupees

Under section 29(a) of the Stamp Act, the stamp duty is to be paid by the pound-keeper.

5. The leases of pounds should be sold about a month before the beginning of the year. Sale notices should be published least 15 days before the sale and should contain a list of all the pounds to be maintained

in the union during the ensuing year. The date, time and place where the sale will be held should be stated and together with the notice, a copy of the form of kabuliyat which the lessee will have to execute should be published. The sale should be held by the president who should be at liberty to refuse the bid of any person whom he does not consider to be suitable for the post of Pound-keeper.

6 It is generally undesirable that a union board should have recourse to the Certificate procedure for the realisation of pound rents ; but it may be noted that the certificate procedure cannot be used by a union board unless a clause is inserted in the pound kabuliyat to the effect that the lessee agrees that any arrears of rent due shall be recoverable as a public demand and unless the kabuliyat is registered (cf. article 9, schedule I of the Bengal Public Demands Recovery Act, 1913 and para. 11 of Bengal Government Circular No. 9, J, dated 24.3.84). It is suggested that registration and certificates be avoided except where a pound lease is sold for more than Rs. 200, If a sufficient number of pounds is provided, none of them is likely to be worth so much.

6. The Magistrate of the District shall also
 Appointment of pound-keepers. appoint for each pound a pound-keeper :

Provided that in the Presidency of Fort St. George, the heads of villages, and in the
 E x-o f f i c i o presidency of Bombay, the Police patils, pound keepers in or (where there are no Police patils), the Madras and heads of villages, shall be ex-officio the Bombay. keepers of vililage-pounds.

Suspension or removal or pound-keepers. Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Pound-keepers
may hold other
offices.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers
to be public
servants.

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

DUTIES OF POUND-KEEPERS.

To keep registers
and furnish
returns.

7. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

To register
seizures.

8. When cattle are brought to a pound, the pound-keeper shall enter in his register.

- (a) the number and description of the animals,
- (b) the day and hour on and at which they were so brought,
- (c) the name and residence of the seizer, and
- (d) the name and residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

To take charge
of and feed
cattle

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

Note.—It is very much to be regretted that Pound-keepers often neglect to give impounded animals food or even water. Members of union boards should stop this form of cruelty. A Pound-keeper who does not give impounded animals sufficient food or water is liable under section 27 of this Act to a fine which may extend to Rs. 50.

CHAPTER III.

Note.—See notes at the head of Chapter II.

IMPOUNDING CATTLE.

10. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land,
Cattle damaging land.

or the vendee or mortgagee of such crop or produce, or any part thereof

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.

All officers of Police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures.
Police to aid seizures.

Note—Chaukidars and dafadars must, if asked, assist in preventing resistance to or rescues from lawful seizure (cf. sec. 3).

11. Persons in charge of public roads, pleasure grounds, plantations, canals, drainage-works, embankments and the like, and officers of Police may seize, or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments, or found straying thereon, and shall send them or cause them to be sent within twenty-four hours to the nearest pound.
Cattle damaging public roads, canals and embankments.

Note.—During the rainy season and at any time when earth work has been done recently, cattle passing may do great injury.

The union board should give directions to the dafadars and chaukidars from time to time as to what roads, drains, tanks and other public places are to be kept free from cattle. The dafadars and chaukidars should warn the cattle-herds and, if cattle are found in such places, they should impound them.

12. For every head of cattle impounded as aforesaid the Pound-keeper shall levy a fine according to the following scale :—

Fines for cattle impounded.	Elephant	...	... two rupees.
	Camel or buffalo	...	... eight annas.
	Horse, mare, gelding, pony, colt,		
	filly, mule, bull, bullock, cow or heifer		four annas.
	Calf, ass or pig	...	... two annas.
	Ram, ewe, sheep, lamb, goat or kid		one anna.

Provided that, when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

A list of the fines and of the rates of charge for feeding and watering cattle shall be struck up in a conspicuous place on or near to every pound.

List of fines and charges for feeding.

The Local Government may at any time, by notification in the Official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.

Note.—Pound-fees or fines under this section should be sent, not to the magistrate, but to the District Board, union board or other local authority to which the functions of the Magistrate have been transferred. But, where the lease system is in force, the fees will be retained by the Pound-keeper.

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

Procedure when
owner claims
the cattle and
pays fines and
charges.

13. If the owner of impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent on taking back the cattle, shall sign a receipt for them in the register kept by the Pound-keeper.

14. If the cattle be not claimed within seven days from of the date of their being impounded, the Pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating.

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village and at the market place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment, deputed for that purpose at such place and time, and subject to such conditions as the Magistrate of the Dis-

trict by general or special order from time to time directs.

Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

Note.—As many villages are at a considerable distance from the thana owners of impounded cattle, frequently do not learn in time of the notice of sale. It is for the general advantage that sales of impounded cattle should be carried out by the president of the union board at a hat or at the union board's office. This section authorises District Magistrates to pass orders that reports and sales of unclaimed cattle should be received and carried out by presidents of union boards instead of thana officers; but if this is done it will be desirable that a copy of the sale notice should be published in at least 3 places *viz* :—(1) the union board's office (2) the thana (3) the pound. Under this section proclamation of the sale must also be made by beat of drum (1) in the village where the cattle were in and (2) at the nearest hat or bazar. See also additional note under Sec. 26, Village Self-Government Act.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal, and that the owner is about to make a complaint under section twenty, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. If the owner or his agent appear, and refuse or omit to pay or (in the case mentioned in section fifteen) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction, by such officer at such place and time, and subject to such conditions as are referred to in section fourteen.

The fines leviable and the expenses of feeding and watering together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of
unsold cattle
and balance
of proceeds.

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account, showing.

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the amount of fines and charges incurred,
- (d) the number of cattle sold,
- (e) the proceeds of sale, and
- (f) the manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

Disposal of fines,
expenses and surplus
proceeds of sale.

The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section thirteen.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and if no claim thereto be referred and established within that period shall, at its expiry dispose of them as hereinafter provided.

Note.—The surplus unclaimed proceeds should not be sent to the district magistrate, but to the local authority to which the functions of the district magistrate have been transferred in the area in which the pound is situated.

18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid,—

Application of fine and unclaimed proceeds of sales.

(a) the salaries allowed to pound-keepers under the orders of the Local Government ;

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act ;

and the surplus (if any) shall be applied under order of the Local Government, to the construction and repair of roads and bridges, and to other purposes of public utility.

Notes.—1. In the Rajshahi, Dacca and Chittagong divisions,* in all unions where *union committees* have been constituted, the Government has, by notification under sec. 31, directed that the surplus referred to in this section shall be placed to the credit of the respective union funds. (cf. Notification No. 1428 L. S. G. dated the 18th May 1914). When *union boards* are constituted similar orders will be passed in their favour, though possibly this concession may not be extended to union boards in the Western Bengal divisions.

2. For all areas administered by district boards, excepting in Eastern Bengal the areas administered by union committees or union boards, the surplus referred to in this section is placed to the credit of the district fund.

3. This section does not apply to fines imposed under sections 26 and 27. Such fines are credited to Government, and not to any local authority, except where a fine is imposed under section 24 by a union bench (cf. sec. 46 Village Self-Government Act).

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained, shall, directly or indirectly, purchase any cattle at a sale under this

Officers and pound-keepers not to purchase cattle at sales under Act.

Act.

THE BĒNGAL VILLAGE SELF-GOVERNMENT ACT. 131

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

Pound-keepers when not to release impounded cattle.

- Notes.*—1. If a defadar, chaukidar or pound-keeper buys any unclaimed cattle which are being sold under the provision of section 14, he is liable to simple imprisonment which may extend to two years or to a fine or to both and the cattle bought will be confiscated. The officer conducting the sale is also prohibited from purchasing such cattle and the same penalties apply to him as to a chaukidar (cf. sec. 169, Indian Penal Code.)
2. A *benami* purchase is punishable as a purchase in the buyer's own name.
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CHAPTER V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

20. Any person whose cattle have been seized under this Act, or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Power to make complaints.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on complaint.

If the Magistrate on examining the complaint or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle;

Compensation for illegal seizure or detention.

and, if the cattle have not been released, the
Magistrate shall, besides awarding
such compensation, order their
release and direct that the fines and expenses leviable
under this Act shall be paid by the person who made the
seizure or detained the cattle.

23. The compensation, fines and expenses men-
tioned in section twenty-two may
be recovered as if they were fines
imposed by the Magistrate.

Release of cattle.

Recovery of compensa-
tion.

CHAPTER VI.

PENALTIES.

24. Whoever forcibly opposes the seizure of cattle

Penalty for forcibly
opposing the seizure of
cattle or resuing the same.

liable to be seized under this Act and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such persons being near at hand acting under the powers conferred by this Act, shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees or with both.

Notes.—1. The imprisonment may be either rigorous or simple (cf. clause (13), section 11, General Clauses Act, (India Act. I of 1868)

2. A complaint under this section may be made by petition, oral or in writing, to any member of a union bench having jurisdiction in the place where the offence was committed, and on conviction the union bench may impose a fine of any amount up to Rs. 25 (cf. secs. 67 and 72, Village Self-Government Act).

25. Any fine imposed under the next following

Recovery of penalty for
mischief committed by
causing cattle to trespass.

section or for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Note.—See note under Sec. 426, Indian Penal Code,

26. Any owner or keeper of pigs who, through

Penalty for damage
caused to land or crops or
public roads by pigs.

neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allow-

ing such pigs to trespass thereon, shall, on conviction before a Magistrate be punished with fine not exceeding ten rupees.

The Local Government, by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees,' or as if there were both such reference and such substitution.

The local Government may at any time, by notification in the official Gazette, cancel or vary a notification under this section.

Notes.—"Public road" in this section includes a railway.—cf. sec. 125 (4) Indian Railways Act, 1890.

2. By notification published in the Calcutta Gazette, 1898, Part I, p. 890, the Government of Bengal directed that, within the municipality of Howrah, the first portion of this section shall be read as if it had reference to cattle generally, instead of to pigs only, and as if the words "fifty rupees" were substituted for the words "ten rupees". No such notification appears to have been issued with regard to any other local area in Bengal.

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provision of section nineteen, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Penalty on pound-keeper failing to perform duties.

Such fines may be recovered by deductions from the pound-keeper's salary.

136 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

28. All fines recovered under section twenty-five, section twenty-six, or twenty-seven may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

Application of fines recovered under section 25, 26, or 27.

CHAPTER VII.

SUITS FOR COMPENSATION.

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court.

Saving of right to sue for compensation.

Note.—A union court is not competent to try a suit for damage by cattle-trespass—cf. sec. 74, Village Self-Government Act.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Set off.

CHAPTER VIII.

SUPPLEMENTAL.

31. The Local Government may from time to time, by notification in the official Gazette,—

Power for Local Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund.

(a) transfer to any local authority within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Local Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority ; or

(b) direct that the whole or any part of the surplus accruing in any district under section eighteen of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district.

Note.—See notes at the head of chapter II and under section 18.

SCHEDULE.

(See Section 2).

Number and year.	Title of Act.
III of 1857 ...	An Act relating to trespasses by cattle.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).
XXII of 1861 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).

(As amended by Circular No. 7 T.-M., dated the 17th May, 1895).

BENGAL FERRIES ACT.

ACT NO. I OF 1885.

An Act to regulate Ferries in Bengal.

Preamble.

Whereas it is expedient to regulate Ferries within the territories subject to the Lieutenant Governor of Bengal: It is enacted as follows:—

Short title.

1. This Act may be called "The Bengal Ferries Act, 1885."

Extent and commencement of Act.

2. It shall extend to all the territories subject to the Lieutenant-Governor of Bengal: And it shall come into force on such date as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf.

Regulation VI of 1819 and Bengal Act 1 of 1866 repealed.

3. Regulation VI of 1819 and Bengal Act 1 of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under such Regulation and Act, shall be deemed to be respectively made, entered into, and taken under this Act.

Act not to apply to municipal ferries.

4. Nothing in this Act contained shall apply to any ferry, deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act 1884.

Note.—A "Municipal ferry" is either a public ferry which the Government has, under section 148 of the Municipal Act, made over to the Municipal Commissioners to be administered by them until the Government shall otherwise direct, or a private ferry which the Municipal Commissioners have acquired and made public under section 149.

Interpretation. 5. In this Act, unless there be something repugnant in the subject or context,—

“Commissioner” means the Commissioner of a Division.

“Ferry” includes a bridge of boats, pontoons or rafts, a swingbridge, a flying-bridge a temporary bridge and a landingstage.

“Notification” means a notification published in the Calcutta Gazette.

“Private ferries” includes all ferries other than those declared to be public ferries, or established as such under section six of this Act.

Notes 1.—It has been held by the High Court that the word “ferry” in this Act means the exclusive right to carry passengers across the stream from one bank to another on payment of certain prescribed tolls (27 Cal. 317). The method of crossing may be by a ferry boat or by any of the means mentioned in this section; but a permanent bridge is not a “ferry”.

2. A boat plying between two places on the same side of a river is not a ferry.

PART I

PUBLIC FERRIES.

Power to declare, establish, define, and discontinue public ferries.

6. It shall be lawful for the Lieutenant-Governor from time to time to—

(a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate.

- (b) take possession of a private ferry, and declare it to be a public ferry ;
- (c) establish new public ferries where, in his opinion, they are needed ;
- (d) define the limits of any public ferry ;
- (e) change the course of any public ferry ; and
- (f) discontinue any public ferry which he deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance, shall be made by notification :

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the District.

Notes (1).—The powers of the Lieutenant-Governor under clauses (a), (b), (c) and (f) have been delegated, under section 36, to Commissioners of divisions (cf. Notification No. 3403 L. S. G. dated the 1st December 1904).

- (2) If the management of any public ferry has, under section 35, been made over to a district board, union board or other local authority any alterations in the course or the limits of such ferry rendered necessary by changes in the river should be made by a formal resolution at a meeting of such district board, union board or other local authority.
- (3) If a district board or union board considers that any new public ferry should be established or that any private ferry should be acquired and made public, it should record its opinion in a formal resolution and submit a representation through the District Magistrate to the Commissioner to exercise his powers under this section.

Control of public ferries vested in the Magistrate of the District. The control of all public ferries shall be vested in the Magistrate of the District, subject to the direction of the Commissioner.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the District in which such ferry is situated, or in such other officer as the

Superintendence of public ferries.

142 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Lieutenant-Governor may, from time to time, either by name or by official designation appoint.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry and for the collection of the authorized tolls leviable thereat.

Notes.—The district board, union board or other local authority to which the management of a public ferry is given will exercise the powers vested in the Magistrate of the district under sections 6, 8, 9, 11, 13, 14, 15, 16, 18, 21, 26, 33 and 34.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such terms as the Magistrate of the District in which such ferry is situated may, with the approval of the Commissioner, direct.

Ferry tolls may be leased by auction.

The Magistrate of the District or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder and may accept any other bid, or may withdraw the tolls from auction.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Execution of contract by lessee.

Notes 1.—When a public ferry managed by a union board is leased, the union board may make rules regulating the payment of the rent of the lease, the number, kind and size of boats and the number of boatmen to be kept, the hours during which the ferry shall be bound to ply and other particulars. Such rules require the approval of the Commissioner and must be published in the Calcutta Gazette (cf. sec. 15). The conditions laid down in the rules made by the union board should be mentioned in the contract executed by the lessee under section 9.

2. The rent of such ferries should be payable at the office of the union board and not at the district treasury.

3. The kabuliyat, or contract, executed by the lessee need not be registered (cf. sec. 12) but should be stamped. The value of the stamp will be the same as in the case of a pound kabuliyat. (See. note 4 under section 5, Cattle Trespass Act).

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

Note.—See note under section 9.

11. On the requisition of the Magistrate of the District, the person in charge of a public ferry shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience: and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

Provision for the establishment of subsidiary ferry.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease:

Recovery of arrears from lessee.

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

all sums due from the lessee on the surrender of his lease under section fourteen,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act VII of 1880, or any other Act at the time being in force for the recovery of public demands.

144 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Note.—Union boards should insist on payment of ferry rents in advance and as soon as any instalment becomes overdue should cancel the lease and resell the ferry. It would be very troublesome for a union board to realize its demands by certificate procedure and the best results will be obtained by avoiding that procedure.

12. All arrears due by the lessee of the tolls
Recovery of arrears of a public ferry on account of his lease ;
from lessee.

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction ; and

all sums due from the lessee on the surrender of his lease under section fourteen,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act VII of 1880, or any other Act at the time being in force for the recovery of public demands.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at
Power to cancel once by the Magistrate of the District in which such ferry is situated,
lease. if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Note.—When a ferry is managed by a union board, the board should exercise the powers with which it is vested under sections 35 and 13 and should insist on the lessee promptly providing suitable ferry boats and sufficient boatmen.

14. The lessee of the tolls of a public ferry may
Surrender of lease. surrender his lease on the expiration of one month's notice in writing to the magistrate of the District in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the

Magistrate may, with the approval of the Commissioner, in each case direct.

Note.—Where a ferry is managed by a union board, the board will exercise the powers of the magistrate under this section.

15. The Magistrate of the District, with the approval of the Commissioner, may from time to time make rules consistent with this Act,—

Power to make rules in regard to public ferries.

- (a) for the management of all public ferries within such district and for regulating the traffic at such ferries ;
- (b) for regulating the time and manner at and in which, the terms on which and the persons by whom, the tolls of such ferries may be leased by auction :
- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for, and
- (d) generally to carry out the purposes of this Act.

And when the tolls of a ferry have been leased under section nine, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act

- (e) for collecting the rents payable for the tolls of such ferries ;
- (f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries ;
- (g) in cases in which the communication is to be established by means of a bridge of boats,

pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and

(h) in cases in which the traffic is conveyed in boats, for regulating

the number and kinds of such boats and their dimensions and equipment ;

the number of the crew to be kept by the lessee for each boat ;

the maintenance of such boats in good condition :

the hours during which, and the intervals within which, the lessee shall be bound to ply, and

the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip.

And may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the "Calcutta Gazette" in such manner as the Lieutenant-Governor directs, and shall thereupon have the force of law.

Notes. 1.—The power of the magistrate to make rules will be exercised by union boards in respect of ferries made over to their management under section 35.

2. The breach of any rule under this section is punishable under section 25.

16. No person shall except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry :

Private ferry not to ply within two miles of public ferry without sanction.

Provided that in the case of any specified public ferry, the Lieutenant-Governor may, by notification, reduce or increase the said distance of two miles to such extent as he thinks fit :

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the District expressly exempts from the operation of this section.

Note—See notes under section 5.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry, being taken possession of or a new public ferry, or subsidiary ferry, being established under section six or section eleven, shall be enquired into by the Magistrate of the District in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto. Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

Note.—When a district board or union board submits proposals for the acquisition of a private ferry it should furnish particulars, so far as they can be obtained, of the net income derived from the ferry by the proprietor during the preceding 5 years. An estimate should also be submitted of the probable annual income which the union board is likely to obtain from the ferry and of the annual cost of maintenance.

18. Tolls, according to such rates as may from time to time, be fixed by the Magistrate of the District with the approval of the Commissioner, shall be levied

on all persons, animals, vehicles and other things crossing any river by a public ferry, and not employed or transmitted on the public service :

Provided that the Lieutenant-Governor may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Tolls.

Where the tolls of a ferry have been leased under section nine, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Notes.—1. For all public ferries managed by them, union boards should submit proposals as to the tolls to be charged.

2. Under section 3 of the Indian Tolls (Army) act, the following persons and property are exempted from payment of tolls :—

- (a) all officers and soldiers of—
 - (i) His Majesty's Regular Forces,
 - (ii) any local corps, or
 - (iii) Imperial Service Troops, when on duty or on the march.
- (b) all members of a corps of Volunteers when on duty or when proceeding to or returning from duty.
- (c) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service, or when proceeding back to their place of residence after such training or service,
- (d) all grass-cutters when employed in the service of—
 - (i) His Majesty's Regular Forces,
 - (ii) any local corps,
 - (iii) Imperial Service Troops, or
 - (iv) any corps, of Volunteers,
- (e) all other authorized followers of—
 - (i) His Majesty's Regular Forces,
 - (ii) any local corps,

- (iii) Imperial Service Troops, or
when they accompany any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when they are otherwise moving under the orders of military authority,
- (f) all members of the families of officers, soldiers or authorized followers of—
 - (i) His Majesty's Regular Forces, or,
 - (ii) any local corps,
 when accompanying any body of troops, or any officer, soldier or authorized follower thereof on duty or on the march,
- (g) all prisoners under military escort,
- (h) the horses and baggage, and the persons (if any) employed in carrying the baggage of any persons exempted under any of the foregoing clauses, when such horses, baggage or persons accompany the persons so exempted under the circumstances mentioned in those clauses respectively.
- (i) all carriages and horses belonging to His Majesty or employed in His Majesty's military service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this section mentioned or when conveying baggage or stores or when returning unladen from conveying such persons, baggage or stores,
- (j) all carriages and horses when moving under the orders of military authority for the purpose of being employed in His Majesty's military service,
- (k) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and
- (l) all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively,

19. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written, or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry ;

Table of tolls.

150 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the District, or such other officer as he appoints in this behalf.

List of Tolls.

Notes.—If the ferry is managed by a district board or union board, the list must be signed by such officer as the board may appoint in that behalf.

20. Except as provided by section thirty-five, all tolls, rents and compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor may from time to time direct.

Tolls, rents, compensation, and fines how to be appropriated.

21. It shall be lawful for the Magistrate of the District in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

Compounding for tolls.

PART II

PRIVATE FERRIES.

22. The Commissioner may, from time to time, make rules consistent with this Act for the maintenance of order and for the safety of passengers and property at private ferries situated in his division.

Power to make rules in regard to private ferries.

Rules made under this section shall be subject to the control of the Lieutenant-Governor and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor directs and shall thereupon have the force of law.

Notes.—Private ferries are generally kept in very bad condition. At many there is only a small boat and no boatman. Passengers are expected to pull themselves across the stream by means of ropes attached to both ends of the boat and to objects on the banks. Sometimes not even a rope is provided but only a pole. A passenger has to propel the boat by means of the pole and no other person can cross the ferry in the same direction until some one comes from the opposite direction. Meantime he may have to sit on the bank for hours waiting. For this convenience an annual toll in kind is realised from the persons who habitually use the ferry.

For most private ferries it seems impossible to compel the proprietors to make any improvement. The rules made by Commissioners, on the basis of the Model Rules framed by Government, are not enforced; and even if they were, no substantial benefit would accrue.

Union boards would do good by drawing the attention of proprietors of private ferries which are mismanaged. If this has no effect the union board should move the Commissioner, through the district board, to make the ferry public under section 6 b). Before doing so the union board must provide funds to pay compensation to the proprietors.

Many of these small ferries if properly managed by union boards would bring them a substantial income.

PART III

PENALTIES AND CRIMINAL PROCEDURE.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section nineteen,

Penalty for breach of provisions as to table of tolls, list of tolls, and return of traffic.

or who wilfully removes, alters or defaces such table or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section nineteen,

and every lessee who neglects to furnish any return required under section fifteen, shall be punished with fine which may extend to fifty rupees.

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for taking unauthorised toll, and for causing delay.

25. Every person breaking any rule made under section fifteen or section twenty-two shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rules made under sections 15 and 22.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section twenty-five, or, having been convicted of an offence under section twenty-three or section twenty-four, is again convicted of an offence under either of those sections, the Magistrate of the District may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

Cancelment of lease on default or breach of rules.

Note—The power of cancelling a lease of a ferry managed by a district board or union board, is vested in such board by order under section 35.

27. Every person crossing by any public ferry who refuses to pay the proper toll; and every person—

Penalties on passengers offending.

who with intent to avoid payment of such tolls fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry or any of his assistants in any

way in the execution of their duty under this Act, or after who being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat or upon any bridge at such a ferry which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft, or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section sixteen shall be punished with fine which may extend to fifty rupees.

Penalty for plying within public ferry-course without license.

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section twenty-seven or section twenty-eight may, notwithstanding anything contained in section twenty, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Fines payable to lessee.

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants may seize and

Penalty for rash navigation and stacking of timber.

154 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

31. The police may arrest without warrant any person committing an offence against section twenty-seven or section thirty.
Power to arrest without warrant.

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section thirty, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.
Magistrate may assess damage done by offender.

The Commissioner may, on the appeal of any person deeming himself aggrieved by any order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

33. On the cancelment or surrender of a lease, the Magistrate of the District may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for
Power to take possession of boats and other appliances on surrender or cancellation of lease.

such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the District shall pay a fair sum to the owners for the use of the said boats and appliances.

Provided that within a week of taking such possession, the Magistrate of the District shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers troops or persons, or of any property of Her Majesty, the Magistrate of the District may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor may in each case direct) until such transport is completed.

Similar power in cases of emergency.

35. It shall be lawful for the Local Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in section 7, 17 and 32, and the local Government may further order that all or any part of the proceeds of such ferry and all or any part of the fines levied, and compensation received under this Act in

Power of Local Government to vest management of public ferries in a local authority.

156 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

respect thereof, be paid to such local authority; and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly.

Notes 1.—Under the Act as originally passed the management and the proceeds of any public ferry could be made over by Government to a district board. By the Village Self-Government Act this section has been so amended that the management and proceeds of any public ferry may be made over to any local authority, which expression includes a union board.

2. Under section 36, commissioners of divisions have been empowered to transfer to district boards the management and the proceeds of public ferries, (if Notification No. 217 L.S.G., dated the 12th January 1905).

36. The Lieutenant-Governor may, from time to time, delegate, under such restrictions as he thinks fit, any of the powers conferred on him by this Act to any Commissioner or Magistrate of a District, or to such other officer or authority as he thinks fit, by name or by official designation.

(I) ELECTION RULES.

Notification No. 630 T.-L.S.-G.—The 13th October 1919.—In exercise of the powers conferred by clauses (a) and (b) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules :—

Rules under the Bengal Village Self-Government Act, 1919, for the election and appointment of Members and Presidents of Union Boards and the election of Vice-Presidents.

PRELIMINARY.

1. The first election of a union board under these rules shall take place within six months after its establishment under section 6 of the Bengal Village Self-Government Act, 1919 :

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 157

Provided that the Local Government may, at any time by an order in writing, extend such period.

2. The District Magistrate shall decide in what manner each union shall be divided into electoral wards and the number of members to be returned for each of such wards :

Provided that, if it is thought convenient, a union may consist of one electoral ward only.

REGISTRATION OF VOTERS.

3. The circle officer shall cause to be prepared for each union, ward by ward, a register of persons qualified to vote.

4. The members of a joint undivided family qualified under clause (iii) of sub-section (1) of section 7 of the Act shall nominate a male member of the family of the full age of 21 years and having a place of residence within the union, to vote on their behalf at an election. The name of the member so nominated shall be communicated to the circle officer at least three months before the date fixed for the election, and shall be entered in the register of voters.

5. At least two months before the date fixed for an election a copy of the list of persons qualified to vote in each ward of any union shall be published at a conspicuous place within such ward.

6. Any person whose name does not appear in the register and who claims the right to vote, and any person who considers that any name in the register ought to be omitted, may submit to the circle officer an applications to have his name inserted in, or the name of another person omitted from, the register. All such application shall state distinctly the grounds of application and shall be made at least one month before the

158 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

date fixed for the election. They shall be enquired into by the circle officer on a date to be previously intimated to the persons concerned. The decision of the circle officer shall be final.

7. The register of voters as amended after the decision of claims and objections under rule 6 shall be considered to be the final register of persons entitled to vote at the election, and no person whose name does not appear in such register shall be permitted to vote.

CANDIDATES FOR ELECTION.

8. The circle officer shall, at least six weeks before the date fixed for the election, issue notices calling for names of candidates for each ward. Such notices shall be published at every village within the ward. Within four weeks from the date of publication of the notices, every person who is a candidate for election shall send his name to the circle officer in writing supported by the signatures of voters :

Provided that the circle officer, if specially empowered by the Local Government in this behalf, may, for reasons to be recorded by him in writing, receive nominations, whether verbally or in writing, up to the time fixed for polling.

9. The circle officer shall ascertain whether all the candidates are duly qualified under sub-section (2) of section 7 of the Act ; and his decision on this point shall be final.

THE MANNER OF HOLDING ELECTIONS.

10. If the number of candidates is not greater than the number of vacancies, the presiding officer shall at once declare such candidates to be duly elected.

11. If the number of candidates exceeds the number of vacancies, a list showing, ward by ward, the

names of candidates who are duly qualified shall be published in each ward in a conspicuous place and by beat of drum at least one week before the date fixed for the election. No candidate whose name does not appear in the list shall be eligible for election.

12. The election shall be held on such date or dates and at such place or places within the union as may be fixed by the circle officer subject to rule 1. The place or places at which and the hours between which the voters will attend for the purpose of giving their votes shall be notified within the union by the publication of notices and by beat of drum at the same time as the list of candidates is published under rule 11.

13. The elections for the different wards in the union shall be held, either in succession or simultaneously, and the circle officer and such other person or persons, not being themselves candidates, deputed by the District Magistrate for the purpose, shall preside at such elections.

14. The proceedings for the election for each ward shall commence by the presiding officer explaining the nature and objects of the meeting to the assembled voters. He shall then read out the list of candidates and state the number of vacancies for such ward.

15. The presiding officer shall then proceed to take a poll for each candidate, recording the number of votes giving for each candidate with his own hand.

16. The votes of all duly registered voters who are present between the hours mentioned in the notice within the building or enclosure in which the election is held shall be recorded. No voter shall be admitted within the building or enclosure after the expiry of the period mentioned in the notice.

17. A voter shall be entitled to vote for the ward or wards in which he has any place of residence and for no other.

18. Each voter shall be entitled to vote for as many candidates as there are vacancies, but shall not give more than one vote for any candidate.

19. All persons wishing to vote must be present at the election. No vote by proxy or in writing shall be received.

20. No objection to a voter shall be entertained except on the ground that he is not the person under whose name as entered in the voters' register he claims to vote. Such objections shall be summarily decided by the presiding officer, whose decision shall be final.

21. The presiding officer shall then and there declare such candidates as have the largest number of votes to be duly elected. In the case of an equal number of votes being recorded in favour of two or more candidates, all of whom cannot be returned, selection shall be made from such candidates by lot, in such manner as the presiding officer may deem fit. The candidate thus selected shall be declared to be duly returned.

22. If any candidate, having been duly elected under rule 21, declines to take office, the unsuccessful candidate, if any, who received the largest number of votes shall be declared to be duly elected. If there is no unsuccessful candidate, a fresh election shall be held to fill the vacancy thus created.

23. If the number of candidates exceeds the number of vacancies, no candidate shall be declared to be duly elected unless 10 per cent. of the registered voters have appeared and recorded their votes; if not, the election shall be held to have failed.

24. If an election fails under rule 23, the presiding officer shall at once report the fact to the District Magistrate, explaining the circumstances which led to the failure. After considering all the circumstances the District Magistrate shall decide whether the vacancy

or vacancies shall be filled by appointment or there shall be another election for the purpose. If, in his opinion the failure was due to no default or neglect of the voters, he shall direct that another election shall be held and shall fix a date for such election, for which the register of voters previously prepared shall hold good.

MISCELLANEOUS.

25. Save as otherwise provided, all disputes arising under the preceding rules shall be decided by the District Magistrate or under his general or special orders by the Subdivisional Magistrate within whose jurisdiction the union lies.

26. Except as provided by rules 22 and 23, no election held under these rules shall be invalidated on any ground whatever.

27. The list of duly returned candidates shall be forwarded to the District Magistrate within a week after the election.

28. No person in the employment or pay of the district, local or union board shall directly or indirectly engage in canvassing for votes or otherwise assist in the election of any candidate otherwise than by giving his own vote. Any breach of this rule will render him liable to dismissal.

29. All costs incurred in the preparation of the register of voters, the publication of notices, the holding of elections, or taking any other necessary action under these rules shall be payable from the union fund. In the case of a newly-created union board, in which no union fund has been formed, the District Magistrate shall advance such sums as may be required; and such sums shall be recoverable from the union board within six months.

APPOINTMENTS OF MEMBERS.

30. As soon as possible after the receipt of the list of elected members referred to in rule 27 the District Magistrate shall appoint members, if any, under subsections (3) and (4) of section 6 of the Act.

PUBLICATION OF THE NAMES OF MEMBERS.

31. The District Magistrate shall forward a list of duly elected and appointed members to the Commissioner of the Division for publication in the *Calcutta Gazette*.

ELECTION OF PRESIDENT.

32. Within a week after the names of the members have been notified in the *Calcutta Gazette*, the District Magistrate shall send a copy of the notification to the circle officer or such other person (not being one of the members) as the said Magistrate may select, with an order directing him to convene a meeting of the members for the purpose of electing a President from among them, within one month from the date of such order.

33. At such meeting one-half of the number of members shall be necessary to form a quorum; if, however, the board consists of 7 or 9 members, 4 or 5 members, respectively, shall form the quorum. There shall be no election of a President unless a quorum is present.

34. The meeting shall be presided over by the circle officer or other person convening it under rule 32. The presiding officer shall ask the members to record their votes in writing, and each of the members voting shall hand to him a signed voting paper containing the name of the person for whom he votes. No member shall vote for more than one candidate.

35. The candidate for whom there is the largest number of votes shall be declared by the presiding

officer to be the President of the board. In the case of equality of votes, the presiding officer shall give a casting vote.

36. If the members fail to elect a President within one month of the Magistrate's order, the fact shall be reported to the District Magistrate, who shall then ask the District Board to appoint, under section 8 of the Act, one of the members to be the President.

ELECTION OF VICE-PRESIDENT.

37. After the President has thus been elected or appointed, as the case may be, the members shall, if they consider a Vice-President necessary, elect one of their own number to be the Vice-President in the same manner as that prescribed for the election of the President in rules 33 to 35, the newly elected or appointed President performing the functions of the presiding officer, and giving his usual vote, and also a casting vote if necessary.

CASUAL VACANCIES.

38. In the case of a casual vacancy occurring under section 13 of the Act on account of the removal, resignation or death of an elected member, the vacancy shall be filled by election in the manner prescribed by rules 8 to 22, and the provisions of rules 23 to 31 shall be applicable to such election. It shall not be necessary to publish the register of voters or extracts from it, provided that the register shall at all times be open to public inspection at the office of the union board, and all persons whose claims have been admitted under rule 6 shall be entitled to vote at such election. The President shall in the case of each by-election publish a notice stating the latest date upon which claims to be registered will be received.

Note.—Presumably rules 4 to 6 will also apply.

39. As soon as a vacancy occurs under section 13 of the Act on account of the removal, resignation, or

death of an appointed member, the President shall report the fact to the District Magistrate, who shall appoint another member to fill the vacancy.

40. (1) When the office of the President becomes vacant under section 17 simultaneously with his office as a member of the board, the vacancy in the office of the President shall be filled by election in the manner prescribed by rules 33 to 35, within two weeks from the date of the election or appointment of a member in his place under rule 38. When he resigns or is removed from the Presidentship but remains a member of the union board, the vacancy in the office of the President shall be similarly filled within two weeks of the resignation being accepted by the Chairman of the District Board or of the order of removal, as the case may be.

(2) The meeting shall be presided over by a member of the union board not being himself a candidate for the Presidentship.

(2) RULES REGARDING MEETING OF UNION BOARDS.

Notification No. 4267 L.S.G.—The 5th January 1920—

In exercise of the powers conferred by clause (e) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules :—

Rules under the Village Self-Government Act, 1919, regulating the conduct of meetings of Union Boards and the method of forming a quorum.

MEETINGS.

1. Meetings shall be held at the office of the Union Board or at such other place as the President may from time to time determine.

THE BENGAL VILLAGE SELF-GOVERNMENT ACT. 165

2. Meetings shall be either ordinary or special.

3. An ordinary meeting of the Union Board shall be held once every month on a day to be selected by the members of the Board at a meeting: Provided that if for any reason it is deemed inconvenient to hold any such meeting on the day thus selected, the President may fix another day for that particular meeting.

4. A special meeting of the Union Board may be called at any time by the President.

5. The President shall call a special meeting on a requisition signed by not less than three of the members. If he fails to do so within thirty days after any such requisition has been made, the meeting may be called by the members who signed the requisition, in the manner laid down in rules 8 and 10.

6. The following subjects shall be dealt with at special meetings only :—

(a) Scale of establishment and salaries (section 36).

(b) Imposition of union rate (section 36).

(c) Applications for the revision of assessment (section 39).

(d) Annual budget estimate.

(e) Removal of the President, the Vice-President or a member [sections 12 (1) (c) and 16].

(f) Salaries, appointment and dismissal of chaukidars and dafadars (sections 20 and 21).

(g) Loans.

7. All other subjects which come within the province of the Union Board may be dealt with at either ordinary or special meetings.

NOTICES OF MEETINGS.

8. At least seven days' notice of all meeting shall be given to every member : Provided that the annual budget estimate shall be circulated to all the members of the Board at least a fortnight before the date fixed for its consideration.

9. Accidental failure of service of notice on any member shall not invalidate the proceedings of any meeting.

10. The notice shall set forth clearly and fully the business to be transacted at the meeting.

QUORUM AND CONDUCT OF PROCEEDINGS AT MEETINGS.

11. Three of the members of the Union Board shall form a quorum. If at the time appointed for the meeting or within one hour thereafter a quorum is not present, the meeting shall stand adjourned and shall be called again on a future day to be appointed by the President. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

At special meetings the quorum shall be formed by at least one-half of the number of members ; if however, the board consists of 7 or 9 members, 4 or 5 members respectively shall form the quorum.

12. The President or, in his absence, the Vice-President (if any) shall preside at every meeting, and in the absence of both the President and the Vice-President, the members shall choose some one of their number to preside :

Provided that the provisions of this rule and of rule 11 shall not apply to a meeting convened for electing a President or a Vice-President.

13. At ordinary meetings the business shall be conducted in the following order :—

- (a) The minutes of the last ordinary meeting and of any special meeting held since shall be read and, if approved as correctly entered, shall be signed by the President of such meeting.**
- (b) Business postponed from the last ordinary meeting shall be considered.**
- (c) A progress report of works shall be laid before the members.**
- (d) Accounts and statements shall be considered and passed.**
- (e) Motions and amendments duly moved and seconded shall be discussed.**

14. At a special meeting, only the business for which the meeting was called shall be considered.

15. Notwithstanding anything contained in rules 13 and 14, it shall be competent for the Union Board at a meeting to transact any business other than that set forth in the notice under rule 8, if the majority of the members present agree to do so.

16. Every motion and amendment duly moved must be seconded, and until seconded, no debate thereon shall take place.

17. Every motion or amendment duly made and seconded and pressed to a division shall be reduced to writing and signed by the proposer and seconder before being put to the vote, Every such resolution or amendment shall be recorded in full in the proceedings, together with the number and names of voters for and against it.

18. The President of the meeting may, for reasons to be recorded in writing and entered in the minutes of the proceedings,—

- (a) rule that a motion or amendment is illegal or out of order and,
- (b) make such alterations in a motion or amendment as shall in his opinion render it legal and in order :

and may in case (a) refuse to put the motion or amendment to the meeting and in case (b) refuse to put the motion or amendment to the meeting unless and until the proposer and seconder accept and sign the alterations made ; and the decision of the President shall be final.

19. After a motion has been moved and seconded an amendment may be moved at any stage of the debate thereon.

20. On the discussion being concluded, in the event of several amendments having been proposed, the President of the meeting shall put the last amendment to the vote first; if it is negatived he shall put the last preceding amendment; and lastly, the first amendment; and if all the amendments are lost the original proposition shall be put to the vote.

21. All questions which may come before the meeting shall be decided by a majority of votes. In case of equality of votes, the President of the meeting shall have a second or casting vote.

22. Voting by proxy is prohibited ; and no member shall vote upon any motion or amendment unless he be present in person at the time when it is put to the vote.

23. When any business of which notice has not been given is considered at a meeting, the deci-

sion recorded or resolution adopted at such meeting shall be of no effect unless and until it is confirmed at the next succeeding ordinary meeting, or at a special meeting called expressly for the purpose.

24. It shall be competent to any member to move the adjournment of the debate or of the meeting. When such motion is seconded it shall be put to the vote. No motion for adjournment shall be admissible which proposes an adjournment beyond the next ordinary meeting.

25. The members shall be informed of the date of an adjourned meeting by a fresh notice. Rule 8 shall not apply in this case.

26. An adjourned meeting is not competent to transact any business save that which the original meeting left unfinished.

MISCELLANEOUS.

27. Unless not less than two-thirds of the members consent by signing a requisition, no subject once finally disposed of can be reconsidered within six months.

28. The minutes of proceedings shall be recorded in the vernacular.

29. The minutes of proceedings shall be entered in a book to be kept for the purpose and shall be signed by the President of the meeting, and such book shall be open to the inspection of the public.

OFFENCES TRIABLE BY A UNION BENCH.

UNDER THE INDIAN PENAL CODE

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

170 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Note.—When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray” (Sec. 159 I.P.C.) A mere exchange of words is not an affray, nor is a fight in a private place.

178. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Notes.—As the provisions of sections 195 and 476 of the Criminal Procedure Code do not apply to any trial, suit or proceeding before a union bench or a union court an offence committed under secs. 178 or 179 of the Indian Penal Code before a union bench or a union court may be reported immediately by the presiding member of such court or bench and tried by the union bench.

2. Also see notes 3 and 4 under sec. 96 Village Self-Government Act.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question, demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Note.—See notes under sec. 178. I.P.C.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Note.—A person who is suffering or who is in contact with another who is suffering from cholera, dysentery, small-pox, influenza or other fatal disease, is bound to exercise great care to avoid doing any act likely to spread the infection. If any person goes to the public hat while suffering from small-pox or who sells the bedding used by a cholera patient may be convicted under this section.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Notes 1.—A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it (Sec. 39 I.P.C.). If anyone by bathing his cattle or fishing with baskets makes muddy the water of a tank used by the public for drinking, he commits an offence under this section.

2. Mere personal bathing or any act calculated to pollute drinking water may be prohibited in certain tanks by orders under sec. 30(4) of the V. S. G. Act. A breach of such order is punishable under sec 30(5)
3. A flowing river or *khal* is not a public spring or reservoir within the meaning of this section.

282. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

Note.—The obstruction of public thoroughfares and waterways is very common in rural Bengal. It is done for the selfish advantage of private individuals who are indifferent to the loss, and injury which the public suffers. They can be convicted under this section on evidence proving that some person has been obstructed in using any paid of a public thoroughfare or of a river, *khal*, or other public waterway.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Notes 1.—A “public nuisance” is defined in section 268, Indian Penal Code, as follows:—

“A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.”

2. The most serious forms of “public nuisance” are punishable under sections 270 (malignant acts likely to spread infection) and 281 (exhibiting false lights or marks to deceive navigators). Other forms of public nuisance, in which expert evidence is necessary or in which the proceedings are likely to be complicated beyond the capacity of an ordinary union court, are punishable under sections 271-276 (adulteration, or sale of noxious, food or drugs), 278-288 (vitiating the atmosphere, rash driving or riding, rash navigation, rash or negligent conduct in connection with poison or fire or explosives or buildings), 292-3 (sale distribution or display of obscene productions) and 294A (keeping or advertising a lottery).

Besides cases under sections 269, 277, 283; 289 and 294, a union bench may try any case of public nuisance not covered by the sections above-mentioned.

3. Examples of cases which fall under this section are the throwing of offensive matter into a public thoroughfare or the turning loose of cattle at night on a public road,
4. Imprisonment in default of payment of a fine under this section shall be simple, and not rigorous (cf. sec. 67 Indian Penal Code).

294. Whoever, to the annoyance of others,—

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, on or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both.

Note 1.—"Words are said to be obscene if they convey immoral suggestions and tend to deprave the minds of those who hear them. An obscene act is one which is offensive to decency and chastity.

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Notes 1.—"Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt," (sec. 321, I. P. Code.)

2. Bodily pain is the only kind of hurt with which a union bench can deal.
3. If the pain caused is so slight that no person of ordinary sense and temper would complain of the pain, there is no offence (cf. sec. 95, I. P. C.)

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Notes 1.—When a person is prevented from proceedings in any direction in which he has a right to proceed by an obstruction caused by the act of another who intended, or knew, or had reason to believe that his act would cause obstruction to that person, that other is said "wrongfully to restrain" that person. (Cf., secs. 339 and 39, I. P. C.)

174 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

2. If a road is partly obstructed, the cases does not come under this section.
3. Obstruction of a public thoroughfare come under sec. 283 (see note)

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Notes 1.—The definitions of assault and criminal force in the Penal Code are rather long. For the use of union benches, the following abbreviated explanations of these terms may be useful :—

Whoever, in order to cause injury, fear or annoyance to another or to commit an offence, does any act which has an effect on the person or sense of feeling of that other, is said to use "criminal force" and

Whoever intentionally makes such gesture or preparation as to cause another to apprehend that he is about to use "criminal forces" to that other, is said to commit an "assault." (Cf. sections 349-51, I. P. C.)

2. When criminal force results in causing hurt, there should be a conviction under section 323 or 334.
3. A member or clerk of a union board is a public servant; so also is a dafadar or chaukidar (cf. section 21, I. P. C.).

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section 352.

Note.—If a defaulter, being annoyed by a lawful distraint under section 41 of the Village Self-Government Act, assaults the chaukidar or other person making the distraint, the case may be reported to the police and on conviction by a Magistrate, the defaulter will be liable to imprisonment which may extend to 2 years, or to fine, or to both. (Cf. sec. 353, I. P. C.). If bodily hurt is caused, the imprisonment may extend to 10 years, (cf. sec. 333, I. P. C.)

403. Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: It is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Notes 1.—"Mischief" is defined as follows:—

Whoever intending, or knowing that he is likely, to cause loss or damage to the public or to any person causes by unlawful means the destruction of any property (no matter to whom it may belong) or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

2. If cattle trespass in a field the owner cannot be convicted of committing mischief unless he has driven them, or caused them to enter the field knowing that by so doing he is likely to cause damage. Mere neglect to prevent cattle from straying is not punishable under this section.
3. If any person causes his own cattle or cattle or which he is in charge to trespass in a field intending to cause damage, he is punishable on conviction under this section and, if he is sentenced to fine, the fine may be recovered by sale of all or any of the cattle, (cf. sec. 25 Cattle Trespass Act.)
4. An unlawful removal of goods from a cart or boat and putting them on the ground, constitutes mischief.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Note.—If the animal is a cow, bull, ox, calf, pony or any animal worth Rs. 50 or more, the case falls under section 429 Indian Penal Code and is not triable by a union bench, (cf. 1 L. R. 22 Cal. 457.)

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause,

a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Note.—This section applies to tanks and irrigation channels.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Notes 1.—Criminal trespass is defined in section 441, Indian Penal Code as follows :—

“Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence is said to commit “criminal trespass.”

2. If the property into which the offender enters or remains is a building tent or vessel used as human dwelling or a building used as a place of worship or as a place for the custody of property, the offence committed is “house-trespass” and the mere introduction of any part of the criminal trespasser’s body is sufficient to constitute house trespass (sec. 442, Indian Penal Code).
3. If the house-trespasser has taken precautions to conceal the fact of his entrance, he commits “lurking house-trespass” and if he enters or leaves the house through a passage opened or unfastened by him or his confederate for the purpose or through a passage not intended for human entrance or to which he has obtained access by scaling a wall or building or by using criminal force or committing an assault, he commits “house-breaking,” (sec. 445, I. P. C.). Cases of “lurking house trespass” and of “house-breaking” are not triable by a union bench.
4. To decide whether criminal trespass has been committed it is most important to determine whether or not the intention of the trespasser was to intimidate, insult, annoy the person in possession or to commit an offence. A person who trespasses under a *bona fide* claim of right does not commit criminal trespass even if the person in possession is annoyed by his action. If the trespasser enters the property of another intending to intimidate, insult or annoy him, or to commit an

offence, then only is he guilty of criminal trespass. In this connection an offence is defined as anything punishable under the Penal Code or punishable under any special or local law with imprisonment for six months or upwards (sec 40, I. P. C.) Thus, mere proof that a person has cultivated waste land without permission would not justify a conviction for criminal trespass, nor would a conviction under this section be justified if a person accompanying a peon of a Munsiff's Court entered a house at the peon's request to bring out property alleged to belong to the judgment-debtor (14 W. R., Cr. 25). But where a servant entered the land of one of his master's tenants and prevented him from cutting his crop, and there was nothing to show that the servant acted with a *bonâ fide* intention of lawfully distraining the crop, a conviction for criminal trespass was upheld (7 Cal. 26).

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Note.—See Note 2 under Section 447.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Note.—It is immaterial whether the peace is actually broken or not provided that the provocation is such as would, under ordinary circumstances, induce a breach of the peace.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of

either description for a term which may extend to seven years, or with fine, or with both.

Notes 1.—Criminal intimidation is defined in Section 503 as follows :—

“Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that the person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation,” and it is explained that “a threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.”

2. A threat to burn a person's house unless he desists from prosecuting a suit is criminal intimidation, so also is a threat to bring a false charge; but the threat must be so far definite that the person to whom it is addressed understand whether it is his person or his property or his reputation to which injury is threatened. For example such a vague threat as *ami tomrke dekhaba*, (“I will show you;”) conveys no precise meaning and would not constitute criminal intimidation, except under special circumstance which would show what meaning the words were intended to convey.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Note.—Before convicting under this section, the bench must be satisfied that the intention of the accused was to insult the modesty of the woman concerned.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

UNDER THE POLICE ACT, 1861.

34. Any person who, on any road or in any street or thoroughfare within the limits of any town to which this section shall be specially extended by the local Government, commits any of the following offences to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment with or without hard labour not exceeding eight days; and it shall be lawful for any Police Officer to take into custody, without a warrant, any person who, within his view, commits any of such offences, namely :—

Punishment for certain offences on roads, &c. **First.**—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains, or breaks any horse or other cattle;

Slaughtering cattle, furious riding, &c. **Second.**—Any person who want only or cruelty beats, abuses, or tortures any animal;

Power of Police officers. **Third.**—Any person who keeps and cattle or conveyance of any kind standing longer than is required for loading or unloading, or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public;

Fourth.—Any person who exposes any goods for sale.

Obstructing passengers. **Fifth.**—Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who

constructs any cowshed, stable, or the like ; or who causes any offensive matter to run from any house, factory, dung-heap, or the like ;

Sixth.—Any person who is found drunk or riotous, or who is incapable of taking care of himself ;
Being drunk or riotous.

Seventh.—Any person who wilfully and indecently exposes his person or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose ;
Indecent exposure of person.

Eighth.—Any person who neglects to fence in, or duly to protect, any well, tank, or other dangerous place or structure.
Neglect to protect dangerous places.

Note.—This section will not be in force in any area until the Local Government has extended it to that area.

**RULES UNDER THE BENGAL VILLAGE
SELF-GOVT. ACT.**

For Rules regarding the election of Members and Presidents of Union Boards, see page 156.

For Rules regarding Meetings of Union Boards see page 164.

**Rules regarding the powers to be exercised by the
President or Vice-President of a Union Board.**

N. B.—*None of the following rules apply to dafadars and chaukidars.*

Notification—No. 1030 L.S.-G.—The 29th March 1920.

—In exercise of the powers conferred by clause (d) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules :—

1. The President shall, for the transaction of the business connected with the Act, or for the purpose of making any order authorised thereby, exercise all the powers vested in the Union Board by the Act and the rules thereunder : provided that the President shall not act in opposition to, or in contravention of, any order of the Board passed at a meeting and shall not exercise any power which by any rule under the Act, is directed to be exercised by the Union Board at a meeting.

2. The President shall have custody of the common seal of the Union Board.

3. The President is empowered to enter, with the sanction of the Union Board, into contracts relating to works and expenditure sanctioned by the Board.

4. Subject to any resolution which the Union Board may from time to time pass, the general powers of control and administration, which are vested or may be vested in the Board under Part I, Chapter IV, of the Act, shall be exercised by the President.

5. The general superintendence and control of the establishment maintained by the Union Board shall vest in, and be exercised by the President.

6. Subject to the scale of establishment laid down by the Union Board and approved by the Local Board the President may appoint and dismiss all officers and servants of the Board: provided that all appointments and dismissals must be reported to the next ordinary meeting of the Board for confirmation. Before any officer is removed or dismissed, the charge against him shall be reduced to writing and communicated to him, and his reply, if any, shall be recorded.

7. The President may suspend any officer or servant of the Board for misconduct or incompetence: provided that the matter shall be laid before the Board for orders at their next ordinary meeting.

8. The President may, with sanction of the Union Board, give one month's notice or one month's pay in lieu of notice, to any person employed by the Board whose services may no longer be required. He may also order the forfeiture of a month's salary of any officer or servant of the Board who may withdraw from the duties of his office without having given previous notice for the period of one month.

9. The President shall have power to inflict for neglect of duty a fine not exceeding one quarter of a month's salary upon any officer or servant of the Union Board: provided that the order of the President inflicting a fine on an officer or servant drawing Rs. 10 per mensem or upwards shall be submitted for the confirmation of the Board at their next ordinary meeting.

10. Casual leave for a period not exceeding seven days at any one time, or fifteen days in twelve months, and sick leave or leave on urgent private affairs for any period not exceeding one month, may be granted by the President, with or without pay and with or without the appointment of a substitute, to any officer or servant of the Board. All leave other than casual leave granted by the President shall be subject to confirmation by the Board.

11. The President shall call on all officers and servants of the Union Board, who may be required by the Board to do so, to furnish such security as the Board may from time to time fix.

12. The powers of the Vice-President shall be such as the President may by an order in writing delegate to him from time to time. Such powers may at any time be withdrawn or modified by an order similarly made: provided that nothing done by the Vice-President with the express or implied consent of the President shall be invalid for want of, or defect of, such written order.

13. In the absence or illness of the President, the Vice-President, if so authorised by the Union Board at a meeting, shall exercise all the powers of the President.

Rules regarding the control, appointment discipline, etc., of dafadars and chaukidars.

Notification.—No. 2197 P. 7.—The 21st May 1920.—

In exercise of the powers conferred by sub-section (1) and clauses (g), (h) and (i) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919, (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules:—

In these rules (1) “district magistrate” means the district magistrate or the authority to whom he may, under section 47 of the Act, read with schedule III, have delegated the powers referred to in column 1 of the said schedule;

(2) “Act” means the Bengal Village Self-Government Act, 1919.

Powers and duties of union boards in regard to the control of dafadars and chaukidars.

I.—APPOINTMENT OF DAFADARS AND CHAUKIDARS.

1. When a vacancy exists in the post of dafadar or chaukidar, the board shall at once report the fact to the district magistrate through the circle officer, and to the officer in charge of the police-station in which the union is situated, and shall, *within a reasonable time*, submit a nomination roll in form A containing all the information prescribed therein. The nomination shall be made by the board at a meeting.

2. When he appoints a dafadar or chaukidar, the district magistrate shall inform the board through the circle officer and shall forward a *sanad* in form B for delivery to the dafadar or chaukidar.

II.—DISMISSAL OF DAFADARS AND CHAUKIDARS.

3. When the board at a meeting considers that a dafadar or chaukidar should be dismissed, it shall submit a statement of the case to the circle officer, who

will forward it to the district magistrate with his comments. The statement submitted by the board shall furnish the following information in full detail :—

- (a) the nature and particulars of the misconduct or neglect complained of ;
- (b) the explanation of the defendant ;
- (c) details of his previous punishments and rewards ; and
- (d) the finding and the recommendations of the board.

4. When he dismisses, or sanctions the dismissal of a dafadar or chaukidar, the district magistrate shall record a proceeding and send a copy thereof to the board.

III.—DISCIPLINE OF DAFADARS AND CHAUKIDARS.

5. The board shall, subject to the control of the district magistrate, allocate to each chaukidar a reasonable beat and, if there is more than one dafadar, determine the dafadar under whom he shall serve ; a dafadar's beat embraces the beats of the chaukidars placed under him.

6. The board may, with the sanction of the district magistrate, require dafadars and chaukidars to appear at muster parades at the board's office at regular intervals. Such parades shall not be held more than once a fortnight. The board shall keep a record of attendance at such parades.

7. The board at a meeting may formally censure or reprimand a dafadar or chaukidar by way of punishment.

8. When the board fines a dafadar or chaukidar it shall do so at a meeting ; and shall record a proceeding giving details of the misconduct or neglect complained of, the explanation of the defendant, and the amount of fine imposed.

9. When the district magistrate fines a dafadar or chaukidar, he shall record a proceeding and send a copy of it to the board through the circle officer.

10. When the board at a meeting considers that a dafadar or chaukidar should be fined more than a quarter of one month's salary, it shall follow the procedure in rule 3 and submit the proceedings to the circle officer, who will forward it to district magistrate with his comments.

11. The board at a meeting may recommend to the district magistrate the withdrawal from a dafadar or chaukidar of good conduct badges or stripes. Such recommendation shall be accompanied by the full report referred to in rule 10, and shall be submitted to the circle officer, who, will forward it to the district magistrate with his comments.

12. The district magistrate may suspend any dafadar or chaukidar against whom the board has drawn up proceedings or in respect of whom he himself has initiated proceedings. Such suspensions shall be reported to the board, and the board shall thereupon make arrangements for a substitute. .

13. The board at a meeting may recommend rewards of the following kinds :—

- (a) rewards in cash ;
- (b) rewards in the form of good conduct stripes or badges ;
- (c) gratuities on retirement.

14. When the board at a meeting considers that a dafadar or chaukidar should be rewarded, it shall submit a statement of the case to the circle officer, who will forward it to the district magistrate with his comments. The statement submitted by the board shall furnish the following information in full detail :—

- (a) particulars of the work for which a reward is recommended ;

- (b) particulars of the reward recommended; and
- (c) the previous rewards and punishments of the dafadar or chaukidar in question.

15. When he sanctions a reward to a dafadar or chaukidar, the district magistrate shall record an order and forward a copy thereof to the board. Arrangements shall be made for the payment or grant of the reward at the earliest possible pay parade held after the said sanction.

16. Cash rewards and the cost of good conduct stripes or badges shall be paid out of the district chaukidari reward fund.

IV.—PAYMENT OF SALARIES AND REWARDS TO DAFADARS AND CHAUKIDARS AND REALISATION OF FINES.

17. Dafadars and chaukidars shall be paid, at regular intervals to be prescribed by the district magistrate, the pay due to them to the end of the preceding month. The dates of pay parades shall be fixed by the district magistrate and communicated by him to the board. These matters shall be determined by the district magistrate after consideration of the views of the board.

18. The board shall cause to be prepared before each date fixed for payment a register in form C showing the names of dafadars and chaukidars to be paid, the rate and amount of salary due to each, the period for which payment is to be made, and the amount of fine, if any, to be deducted from the salary of each.

19. Upon the date fixed all dafadars and chaukidars shall attend the board's office, and the president shall arrange for the distribution of their pay to them there.

20. The pay parade shall be conducted by the president of the board or, when he is incapable of conducting it, by any other member of the board, hereinafter referred to as the presiding member, deputed by the president in this behalf.

21. The presiding member shall in the first place ascertain whether any salary is owing to any dafadar or chaukidar for the period preceding that under payment, and shall first pay off any such salary which he finds to be due. Having done this, he shall then proceed to make payment for the current period.

22. All payments shall be made in cash and in full; and no payment shall be made to any payee for less than the sum due to him in respect of the period for which salaries are being paid. No admission of a payee of having received any pay in advance shall be accepted.

23. The amount of fine due from a dafadar or chaukidar shall be realised from him by the presiding member immediately after the payment of the salary due to him. No fine shall be realised otherwise than at the time of payment of salary.

24. All payments (less the amount of fine realised and all realisations of fine shall be noted in the acquittance rolls of the payees, which shall be kept in form D, and shall be then and there signed and dated by the presiding member.

25. All such payments and realisations shall likewise be entered then and there by the presiding member in the board's payment register in Form C.

26. If any dafadar or chaukidar is not paid, the fact and the grounds for non-payment shall be noted against his name in the remarks column of the payment register by the presiding member.

27. If any dafadar or chaukidar is absent from the pay parade, the amount due to him shall be kept in deposit in the board's office and paid to him in the presence of a member of the board on the first convenient opportunity. That member shall attest the payment in the payee's acquittance roll and in the payment register.

28. After paying their salaries to all the dafadars and chaukidars present, the presiding member shall

distribute any rewards which have been sent to the board for distribution.

29. As soon as the pay parade is over, the board shall send to the nearest treasury for credit to the district chaukidari reward fund the total amount realised as fine accompanied by a chalan in triplicate for the sum total of the fines realised, upon which shall be endorsed the details of the realisations made. Of the two copies of the chalan which will be returned by the treasury, one copy shall be forwarded to the circle officer and one filed in the board's office.

30. As soon as the pay parade is over, the board shall send to the circle officer a report of the proceedings in Form E.

V.—PAYMENT OF COST OF EQUIPMENT OF DAFADARS AND CHAUKIDARS.

31. The annual cost of equipment for dafadars and chaukidars (including conveyance charges for the same) shall be fixed by the district magistrate after consideration of the views of the board.

32. The circle officer shall send to the board a fortnight before the last pay parade in the first quarter a statement in Form F.

33. The board shall pay the cost of equipment of chaukidars and dafadars to the circle officer in quarterly instalment. All such payment shall be in full in respect of every dafadar or chaukidar without exception. They shall be made not later than the day following the last pay parade in each quarter. The circle officer shall grant receipts for the same to the board in Form G.

34. The circle officer, when he receives a consignment of equipment, shall forward it to the board concerned with an invoice in Form H, in which Part I shall be filled up and signed by the circle officer and the board shall distribute the equipment at the next pay parade. When distribution has been completed, the

union board shall fill up Part II and return the invoice (Form H) to the circle officer.

VI.—DUTIES OF DAFADARS AND CHAUKIDARS.

35. Each dafadar and chaukidar shall receive from the board, on his appointment, a vernacular copy of instructions explaining his powers and duties.

36. The duties of the chaukidar shall include the following :—

- (a) he shall patrol regularly the beat allotted to him by the board in accordance with their orders and be present in that beat throughout the night, unless ordered by the board to patrol elsewhere in the union ;
- (b) he shall attend at the police-station at such muster parades as may be prescribed by the district magistrate ;
- (c) he shall carry out all lawful orders of any dafadar of the union to which he belongs ;
- (d) he shall to the best of his ability assist the police in the execution of their duties, and shall carry out all lawful orders issued by the police in their execution of such duties ;
- (e) if unable, owing to sickness or for any other sufficient reason, to perform any of his duties, he shall immediately report the fact to the dafadar under whom he is serving.

37. A chaukidar shall not be taken away from his beat for miscellaneous or other work except in cases of special urgency or when he is required to guard or escort a prisoner. His employment by the police, by the board, by any member of the board or by any other authority as a private servant or in a menial capacity is strictly forbidden.

38. The duties of the dafadar shall include the following :—

192 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

- (a) he shall to the best of his ability assist the police in the prevention of crime and the maintenance of order, and shall perform such duties as the district magistrate may prescribe to that end ;
- (b) he shall keep a bound note-book to be supplied by the board and enter therein such information as the district magistrate may prescribe ;
- (c) if so required by the district magistrate he shall keep a diary in the following form :—

Date.	Villages visited.	Remarks.—Movements of strangers, bad characters, etc.
-------	-------------------	--

and shall submit this diary to the officer in charge of the police-station whenever such officer calls for it ;

- (d) he shall periodically patrol the villages of the union or of his beat both by night and by day ;
- (e) he shall be responsible for seeing that the chaukidars subordinate to him perform their duties properly, and shall explain any negligence of duty on their part which he may reasonably have been expected to check ;
- (f) he shall pay surprise visits to, at least two of the chaukidars' beats on, at least four nights during the week, and shall see that the chaukidars are alert and performing their duties ;
- (g) he shall attend all muster parades whether at the police station or at the board's office.

He shall there report all cases of misconduct in chaukidars subordinate to him, explain the causes of absence of any chaukidar who is absent, and see that all those present are dressed in proper uniform ;

- (h) when chaukidar subordinate to him is unable, on account of sickness or other sufficient reason, to perform his duties, he shall inform the board promptly and shall see that a substitute is appointed ;
- (i) he shall be specially responsible for reporting to the police the information referred to in sub-sections (iv), (v), (vi) and (viii) of section 23 (1) of the Act, viz. :—
 - (i) arrests by private persons ;
 - (ii) the movements of all bad characters within the union ;
 - (iii) the arrival of suspicious characters in the neighbourhood ;
 - (iv) any local information which any police-officer may require ; as also for giving timely information regarding—
 - (1) the movement of strangers of wandering gangs within the union ;
 - (2) the occurrence of a breach of the peace or the likelihood thereof ;

whenever directed by the board to do so, he shall report to the board all action taken by a chaukidar or himself under these heads ;

- (j) he shall be specially diligent in the arresting of absconders and in obtaining for the police all available information regarding them.

39. A dafadar shall not ordinarily be employed on work which would carry him outside the union to which he belongs or outside the beat to which, if he be one of several dafadars, he has been allotted.

VII.—SERVICE OF PROCESSES BY DAFADARS AND CHAUKIDARS.

40. Dafadars and chaukidars shall serve processes issued by union benches and union courts in accordance with rules issued under section 101 (2) (r). They shall also serve the following processes:—

(i) *Revenue*—

All processes other than warrants for making arrests or warrants for distraint and sale of property.

(ii) *Criminal*—

All processes other than warrants for making arrests or warrants for making searches or warrants for distraint and sale of property :

Provided that any court may at any time cause a process to be served by the process-serving agency attached to it, instead of sending it to the union board for service by a dafadar or chaukidar.

41. Processes to be served by dafadars or chaukidars shall be sent direct to the president of the board. The president shall determine by which dafadar or chaukidar each process shall be served, and shall endorse upon each the name of the dafadar or chaukidar who is to serve it. The president shall make over to the dafadar the processes to be served by him as well as those to be served by chaukidars under him; and the dafadar shall make over to the chaukidars those which they are to serve. Similarly, after service, the dafadar shall make all processes over to the president; and the president shall return them to the issuing authority.

42. The president shall maintain a register of processes sent to him for service in Form I.

43. Each dafadar shall appear before the president at such times as may be appointed for the purpose of taking over processes; and shall make over without delay to the chaukidars concerned those which are endorsed to them for service.

All processes shall be served and returned as quickly as possible.

44. For each process served a fee of 2 annas shall be paid to the union fund, the cost being met from the budget of the collector or the district magistrate concerned.

At the end of each month the nazir in the collector's or magistrate's office will draw bills union by union, cash them and send the amount to each board concerned.

45. All dafadars and chaukidars shall be public servants for the purposes of section 68 (2) of the Code of Criminal Procedure.

46. All dafadars and chaukidars shall be supplied by the board with a copy in vernacular of instructions showing how processes should be served.

FORM A.

(Vide rule 1.)

Nomination roll for the post of $\frac{\text{dafadar}}{\text{chaukidar}}$ in union.
Police-station _____

1. Name of nominee.
2. Father's name.
3. Caste.
4. Age.
5. How employed since attaining majority?
6. Physical condition.
7. Residence.
8. Is the nominee related to the late incumbent?
9. Is his character good?

10. Are any of his relations bad characters ?

If so, give details.

11. Can he read and write (more than his name only)?

12. Thumb prints of nominee.

Signature of President of the Union Board.

FORM B.

(Vide rule 2.)

*Sanad of appointment of a dafadar
chaukidar under section 20 (1)
of Bengal Act V of 1919.*

caste, , son of
Police-station , village
outpost , district
at present resident of village
police-station , district
outpost
is hereby appointed, under the provisions of section 20
(1) of Bengal Act V of 1919, to be a dafadar
chaukidar in union
police-station , district
outpost

Dated

The 19 ..

District Magistrate.

Subdivisional Magistrate.

Superintendent of Police.

Circle Officer.

FORM C.

(Vide rules 18, 25, 26 and 27.)

Register of payment of dafadars and chaukidars.

(A separate page to be maintained for each payee.)

Serial number of dafadar or chaukidar.	Name of dafadar or chaukidar.	Rate of pay per month.	Period.	Fines imposed.	Amount paid as salary.	Fines realised.	Initial of presiding member and date of payment.	Remarks.
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RULES UNDER THE

FORM D.

(Vide rules 24 and 27.)

Acquittance roll of _____

dafadar
chaukidar

Month.	Date of payment.	Amount paid as salary.	Fine realised	Initials of presiding member.	Remarks.

SELF-GOVT. ACT.

FORM E. (Vide rule 30.)

*Salaries of chaukidars and dafadars of _____ union in police-station
for the $\frac{\text{month}}{\text{quarter}}$ of _____*

Date of payment.	Name of presiding member.	Number of chaukidars (including dafadars) on the roll.	Number paid in full.	Names of those not paid owing to absence.	Names of those not paid for other reason.	Statement of reasons for non-payments shown in columns 5 and 6.	REWARDS DISTRIBUTED.		Details of mutation in the names of dafadars and chaukidars since the preceding pay parade.
							Names.	Amount.	

FORM F. (Vide rule 32.)

CIRCLE.

*Register showing demands, collections and balances of Chaukidari
Uniform Fund for the year.*

Name of police-station.	Number and name of union.	Number of dafadars in the _____	Number of chaukidars in the _____	Total annual demand for full equipment of chaukidars	One quarter of the amount in column 5 being the amount payable quarterly.
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FORM G. (*Vide* rule 33.)

Receipt for payment of cost of chaukidari uniform.

To be kept in the circle office. To be made over to the union board.

- | | |
|--|--|
| 1. Serial number. | 1. Serial number. |
| 2. Number & name of union. | 2. Number & name of union. |
| 3. Demand for the quarter. | 3. Demand for the quarter. |
| 4. For which quarter paid. | 4. For which quarter paid. |
| 5. Amount paid (in figures and words). | 5. Amount paid (in figures and words). |
| 6. Date of payment. | 6. Date of payment. |
| 7. Signature of circle officer. | 7. Signature of circle officer. |

FORM H. (*Vide* rule 34.)

PART I.

The President _____ Union Board.

SIR,

HEREWITH the undermentioned equipment for distribution to the dafadars and chaukidars of your union. Please note all issues in Part II of this form and when distribution has been completed return Part II to me with your signature.

Circle Officer.

Chaukidars.

Haversacks.
Pagris.
Jumpers.
Cross-belts.
Leather belts.
Brass badges.

Dafadars.

Haversacks.
Pagris.
Jumpers.
Cross-belts.
Leather belts.
Brass badges.
Lanterns.

PART II.

To

The Circle Officer—

SIR,

THE articles mentioned in Part I above have been issued as noted below*.

President,—

—*Union Board.*

Account Rules for Union Boards.

Notification No. 1918 L. S.-G.—The 24th June 1920.—

In exercise of the powers conferred by clauses (f) and (m) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules:—

BUDGET ESTIMATE.

1. The union board shall annually submit to the district board through the local board, on or before such date as the district board may appoint, an estimate in Form No. 1 of the probable receipts and expenditure of the union board for the ensuing Bengali year, for sanction of items other than those relating to dafadars and chaukidars.

An extract from the estimate relating to dafadars and chaukidars shall be submitted to the District Magistrate for sanction. A copy of the extract shall also be submitted to the Sub-divisional Magistrate through the circle officer.

2. No expenditure shall be incurred in excess of the budget under any head without the previous sanction of the district board or the District Magistrate, as the case may be, and no re-appropriation from one sub-head to another under the same head shall be made without the sanction of the union board at a meeting: provided that if urgent need occurs the president may re-appropriate a sum not exceeding Rs. 10 from one sub-head to another under the same head. The president shall inform the union board at the next meeting and obtain its approval.

CUSTODY OF UNION FUND.

3. The union fund shall either remain in the custody of the president or be deposited in the name of the

union board in the Savings Bank of the nearest post-office; or in the case of union boards at head-quarters of sub-divisions, the president may open an account in the local treasury or sub-treasury to which he shall credit the receipts of the union fund. In the last-named case a pass-book and a cheque-book shall be supplied to the president, the treasury officer being directed to pass cheques issued by the president. The cheque-book shall remain in the custody of the president.

CASH-BOOK.

4. All receipts and payments of a union board not having an account with the local treasury or sub-treasury shall be recorded in a cash-book in Form No. 2 on the same day that the money is received or paid, and, in the case of union boards having an account with the local treasury or sub-treasury, all receipts shall be recorded in a cash-book in Form No. 3 and promptly remitted to such treasury or sub-treasury, and payments shall be entered in the cash-book as soon as cheques are signed by the president. The amount of cheques received in payment of contributions shall be entered in the cash-book after encashment, but if the union board has an account at the treasury or sub-treasury, the cheques in payment of contributions from the provincial and district funds shall be credited to the union board by *per contra* debit to these funds and shall be included in the cash-book when the credits appear in the pass-book.

ASSESSMENT AND COLLECTION OF UNION RATE.

5. For the collection of the rate imposed under section 37 of the Act, the following accounts shall be kept:—

A.—Collection register (Form No. 4).

B.—Daily collection book (Form No. 5).

Columns 2 and 4 of the collection register shall be filled in at the beginning of the year and columns 1 and

3 as soon as the current year's assessments are determined.

6. The collecting member or officer shall enter the amount at once with necessary details in the daily collection book (Form No. 5). The register of daily collections and the counterfoils of receipts shall be taken to the president, with the collections, on the first day of every month and also on any day when the collecting member or officer has Rs. 25 or more in hand and shall be produced at any other time when the president may so order. The collections shall be made over to the president for credit to the union fund and his receipt taken in the daily collection book. From this book the collections shall be posted the next day in the collection register. The amount shall be entered in the column for the quarter in which, and not that for which, it is realized.

RENT OF POUNDS AND FERRIES.

7. A register in Form No. 6 shall be maintained for watching recoveries of pound and ferry rents and accounting for them.

8. The lessees of pounds and ferries shall be required, at least 15 days before the period of the lease begins, to place their signatures in column 9 against their names and to pay in advance at least one quarter of a year's rent.

9. The register shall be opened by bringing forward all arrears due from lessees whose leases have terminated and have not been renewed. The entries shall be filled in from the previous year's account and made serially, one below the other in column 6, grouped according to the year for which the arrears are due. In the case of such expired leases columns 7 to 9 need not be filled in. The demands for current leases and the dates on which payments on account of them are due

shall be entered in columns 7 and 8, respectively. Every entry in columns 6 and 7 shall be verified by the president, who shall put his initials with date in column 10 against each entry.

10. All realizations and their dates shall be entered in columns 11 and 12, respectively, and all sums so realized shall be credited direct to "Pound receipts" in column 5 or "Ferry receipts" in column 6 of the cash-book. The entries in column 11 shall be compared by the president with the cash-book and he shall place his initials in column 15.

11. When a lease is cancelled for any reason and the pound or ferry resold or abolished, the demands up to date shall be worked out and compared with the collections up to date.

RECEIPTS.

12. For all sums received by the union board except those on account of the union rate, a receipt in Form No. 7 duly signed by the president shall be granted to the payee.

REMISSIONS.

13. No remission shall be sanctioned except by the union board at a meeting.

PAYMENT OF CLAIMS.

14. Every bill or other claim for payment from the union fund shall show full details of the charges, shall be signed by the persons to whom the money is actually due and shall, except in the case of advances paid under rule 15, bear a certificate that the work billed for has actually been completed. When the work is carried out under the supervision of an officer of the district or local board, the certificate should be signed by that officer. In other cases it should be signed by a

member of the union board authorised by the board to do so on its behalf in each case. At the time of making payment in cash or of issuing a cheque, the president shall take a receipt, stamped if necessary, from the payee, and endorse the bill with words "Paid Rs. _____ only (Rupees _____)"

in cash," the amounts being written in words as well as in figures. The endorsement shall be dated and signed by the president and shall bear the number of the voucher as in the cash-book. Payments to illiterate persons shall be attested by a competent witness in addition to the paying officer.

ADVANCES.

[NOTE.—Union board works may be carried out either by a contractor under the supervision of a member or officer of the union board or of an officer of the district or local board, or directly by a member of the union board, provided that such member except with the sanction of the local board, does not directly or indirectly participate in the profits of the work or is not concerned or does not participate in any contract connected with the work.]

15. If any work is to be carried out by a member of a union board or by a contractor under the supervision of a member of a union board, advances may be paid, with the sanction of the union board, either to such member or to the contractor. The person to whom an advance is paid shall keep proper accounts of the amount advanced, and shall submit an account duly supported by vouchers to the union board within three months from the date of the advance. No fresh advances shall be paid until the previous advance is adjusted.

16. As soon as an advance is paid under rule 15 the president shall enter it as a payment under the head "Advances," on the payment side of the cash-book (Form No. 3 or 2 according as the union board has an account with the local treasury or not) and make the necessary entries in the payment side (columns 15, 16, 17 and 29 in Form No. 2. or columns 19, 20, 21, 22 and

34 in Form No. 3, as the case may be). The payment orders shall be used as vouchers and numbered serially and the serial numbers entered in the payment side (column 17 of Form No. 2 or column 21 of Form No. 3). The advance shall also be entered in columns 1 to 4 on the debit side of the advance register (Form No. 8), and for each person to whom advances are given a separate account shall be opened in the register. Advances paid to the same person for more than one work shall be entered as separate entires, both in the cash-book and in the advance register. When advances are recovered either in cash or by work-bills, necessary entries shall be made in columns 6 to 9 on the credit side of the advance register. If the advance is recovered in cash, it shall be entered as "Advance recovered" on the receipt side of the cash-book (Form No. 2 or 3). If, however, the recovery is made by work-bill, the amount shall, in the first instance, be posted in the adjustment register (Form No. 9), not only in column 4 as a credit, but also under the appropriate head on the payment side (columns 6 to 11). The totals of the adjustment register for the month shall be posted under the appropriate heads of the cash-book (columns 20 to 26 of the payment side of Form No. 2, or columns 25 to 31 of the same side of Form No. 3, as the case may be).

ANNUAL ACCOUNTS.

17. As soon as possible after the close of the year the annual account of the union board showing the total receipts and payments during the year under the several heads of accounts with opening and closing balances shall be prepared in a form similar to the cash-book, but omitting columns 1, 2, 3, 15, 16 and 17 in case of Form No. 2, and columns 1, 2, 3, 16, 17, 18, 19, 20, 21 and 22 in case of Form No. 3. This account shall be submitted to the district board after actual counting of the closing balance and comparison with the treasury

or Savings Bank pass-book. A copy of it shall also be submitted to the district magistrate.

18. An abstract of annual expenditure, prepared in Form No. 10 together with a statement of the charges for chaukidars and dafadars and other establishment (if any), shall be published, not later than one month after the close of the year to which it relates, by posting up a copy signed by the members of the union board at the office of the union board or in any neighbouring *hāt* which is generally frequented by the villagers belonging to the union.

AUDIT OF ACCOUNTS.

19. At least once a year a complete audit of the union board's accounts shall be carried out within the union by the circle officer.

REGISTER OF LANDS AND PUBLIC RIGHTS OF WAY.

20. A proper record of all lands, including roads, lands on roadsides, sites of buildings, tanks, etc., in the possession of the union board either as owner or controller shall be kept in Form No. 11. If any plot of land shown in the register is sold or otherwise transferred from the possession of the union board, the entry for it shall be struck off and the facts in connection with the transfer or sale stated in the column for remarks under the initials of the president. The register shall be annually examined by the president and attested with his signature and date.

All public rights of way, by land or water, should be entered in this register. If a path over which the public has a right of way has not been formally acquired by the Government or a local authority, an entry shall be made in columns 7, 11 and 12. In every case the numbers of the plots in the most recent settlement or other authoritative maps shall be entered in column 12. Care should be taken to include all plots covered by the land to which the entry relates.

UNION BOARD

[Vide

Budget estimates of probable receipts and expenditure of the Union

Receipts.	Actuals (of previous year).	Sanctioned estimates (of current year).	Budget estimates (of ensuing year).
1	2	3	4
Opening balance			
Pound receipts			
Ferry receipts			
Union rate—			
(i) under section 37 (a)			
(ii) under section 37(b)*			
(iii) 10 per cent. of (i) and (ii) for collection expenses and losses due to non-realisation.			
Rents of chaukidari chakran lands ...			
Contributions—			
From Government			
" District Board			
" Others sources			
Miscellaneous receipts—			
Fees and fines under section 34 ...			
Penalties under section 41			
Fines under section 72 and others receipts of the Union Bench.			
Fees under section 90 and other receipts of the Union Court.			
Others			
Etc.			
Total			

* The particular works for which the rate is to be levied should be specified.

FORM No. 1.

Rule 1.]

Board of _____ for the Bengal year _____.

Expenditure.	Actuals (of previous year).	Sanctioned estimates (of current year).	Budget estimates (of ensuing year).	REMARKS.
5	6	7	8	9
Dafadars and chaukidars—				
Salaries ...				
Equipment ...				
Other establishment ...				
Collection charges ...				
Construction of following roads—				
(a) ...				
(b) ...				
Repair of following roads—				
(a) ...				
(b) ...				
Improvement of drainage of ...				
Improvement of water-supply as per details below.				
Conservancy as per details below ...				
Other sanitary measures as per details below.				
Schools ...				
Dispensaries ...				
Etc. ...				
Closing balance ...				
Total ...				

210 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

UNION BOARD

[*Vide*

Cash-book of the Union Board of

[illegible]

* Enter "Collecting member or officer (with his name)" when payment is made by him, and give the serial numbers of the receipts granted to assesses in column 3. The total covering these receipts will only be entered in column 7.

for the month of _____

PAYMENTS.

[illegible]

* This is for any miscellaneous charges which it may be necessary to classify separately. Other columns may also be added, if necessary.

UNION BOARD FORM No. 3. [Vide Rule 4.]

Cash-book of the Union Board of _____ for the month of _____

RECEIPTS.

Date of receipts.		From whom received.*	
1	2		
Total receipts			
3	* Serial No. of receipts in the receipt book.		
4	Rs.	Opening balance.	
5	Rs.	Pound receipts.	
6	Rs.	Ferry receipts.	
7	Rs.	Union rate under section 37.	
8	Rs.	Rents on chaukidari chakran lands.	
9	Rs.	Contributions.	
10	Rs.	Receipts of Union Bench.	
11	Rs.	Receipts of Union Court.	
12	Rs.	Miscellaneous receipts.	
13	Rs.	Advances recovered.	
14	Rs.	Total.	
15	Rs.	Total amount remitted to treasury.	
16		Date of remittance.	
17		Number of treasury chalan.	
18		REMARKS.	

* Enter "Collecting member or officer (with his name) when payment is made by him and give the serial number of receipts granted to assessee in column 3. The total covering these receipts will only be entered in column 7.

Memorandum—Balances as per cash-book

Add—Cheque uncashed

No. dated

Deduct—Amounts not remitted to treasury Balance as per cash-book.

Rs. A. P.

UNION BOARD FORM No. 3. [Vide Rule 4.]

Cash-book of the Union Board of _____ for the month of _____

PAYMENTS.

Date of payment.	To whom paid.	Number of vouchers.	Number of cheque.	Establishment.	Dafadars and chaukidars.	Construction of roads.	Repair of roads.	Improvement of drainage.	Sanitation.	Conservancy.	Improvement of water supply.	†	Expenditure of Union Bench.	Expenditure of Union Court.	Advances.	Closing balance.	Total.	REMARKS.
19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.					
Total payments.																		

† The is for any miscellaneous which it may be necessary to classify separately. Other columns may also be added, if necessary.

Memorandum—Balances as per cash-book

Add—Cheque uncashed

No. dated

Deduct—Amounts not remitted to treasury Balance as per cash-book.

Rs. A. P.

RULES UNDER THE S. G. ACT

UNION BOARD FORM No. 4.

[Vide Rule 5.]

Collection Register for the year——— B.S.

Union Board.

Serial . number in the Assessment Register.	Name of the Assessee.	DEMAND.			COLLECTIONS.										REMARKS.	
		Assessment for current year.	Arrears.	Total.	1st quarter.		2nd quarter.		3rd quarter.		4th quarter.		Total.	Remissions.		Balances.
					Date.	Amount.	Date.	Amount.	Date.	Amount.	Date.	Amount.				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
		Rs.	Rs.	Rs.		Rs.		Rs.		Rs.		Rs.	Rs.	Rs.	Rs.	

UNION BOARD FORM No. 5.

[Vide Rule 5.]

Daily Collection Book.

_____ Union Board.

Date.	Name.	Serial number of receipt.	Amount paid.	Total credited in cash-book.	Receipt of President for the amount.
তারিখ।	নাম।	রসিদের ক্রমিক নম্বর	বত টাকা দেওয়া হইল।	মোট টাকা বাণ কাশ বহিতে জমা হইল।	টাকার জব প্রেসিডেন্টের রসিদ।
1	2	3	4	5	6
			Rs. A. P.	Rs. A. P.	

RULES UNDER THE V. S. G. ACT.

216 THE BENGAL SHLF-GOVERNMENT ACT.

Register of pound and ferry rents for _____ B.S.

Union Board.

Name of pound or ferry.	Situation.	PERIOD OF LEASE.		Name of lessee.	Arrear.	INSTALLMENTS DUE.		Lessee's signature, with date.	President's signature.	PAYMENTS.			Remissions.	Balance.	President's initials
		From—	To—			Amount.	Date.			Amount.	Date	Rs.			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
					Rs.	Rs.				Rs.		Rs.	Rs.		

Union Committee Form
No. 7.



[Vide Rule 12]



MISCELLANEOUS RECEIPT.



MISCELLANEOUS RECEIPT.

ইউনিয়ন বোর্ড



ইউনিয়ন বোর্ড

রসিদের ক্রমিক নম্বর

রসিদের ক্রমিক নম্বর

র নিকট হইতে

র নিকট হইতে

বাবত



বাবত

টাকা আনা পাই

টাকা আনা পাই

আদায় হইল।

আদায় হইল।

মং টাকা আনা

মং টাকা আনা

পাই।



সন

সন



তারিখ

তারিখ



প্রেসিডেন্টের স্বাক্ষর।

প্রেসিডেন্টের স্বাক্ষর।

UNION BOARD FORM No. 10.*

[Vide Rule 18.]

Expenditure incurred by the Union Board of _____ in work
done during the year _____ B.S.

Name of work.	Name of payee †	Amount paid.	REMARKS.
1	2	3	4
		Rs. A. P.	
Pound			
Ferry			
Roads—			
(1) (Name)			
(2)			
Drainage of—			
(1)			
(2)			
Water-supply—			
(1)			
(2)			
Conservancy			
Other sanitary measures			
School—			
(1)			
(2)			
Dispensary			
Etc.			

* N.B.—This form will be bi-lingual in English and the vernacular.

† Only the name of the member or contractor who carried out the work or any part of it should be stated.

UNION BOARD FORM NO.

de Ru 20.

Register of lands and public rights of way.

1	Serial number.	
2	Area in acres.	
3	Description and situation.	
4	For what purpose held.	
5	Formally acquired under the law.	HOW HELD, THAT IS, WHETHER—
6	Rented.	
7	Free of rent.	
8	Placed under the control of the Union Board.	
9	Date when formally acquired, or when taken up on rent or free of rent, or when placed under the control of Union Board.	
10	If rented amount of annual rent.	Rs. A. P.
11	If not formally acquired, terms on which held.	
12	Reference to title-deeds, maps, etc.	
13	Remarks and initials of President	

Rules regarding Assessment and Collection of the Union Rate.

Notification.—No. 1998 L.S.-G.—The 3rd July 1920.—

In exercise of the powers conferred by clauses (k) and (l) of sub-section (2) of section 101 of the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules :—

ASSESSMENT AND IMPOSITION OF THE UNION RATE.

1. After preparing the annual budget estimate in Account Form No. 1 and not less than two months and a half before the first day of the year to which the budget relates, the union board at a meeting shall proceed to assess the union rate provided in the estimate according to the circumstances and the property within the union of the persons liable to assessment.

2. The union board shall first prepare, village by village and in Form No. 1, a list of all persons owning or occupying buildings in the union, either permanently or temporarily, showing their trade, business, etc., and their estimated annual income within the union. All such persons shall be included in the list, even if some are subsequently exempted.

3. The board shall determine the total assessable income of the person concerned after considering his debts and liabilities, if any.

4. Government or any local authority or company owning or occupying buildings in the union may be assessed in consideration of the value of the total property which the Government or such authority or company may possess within the Union :

Provided that the total amount of the rate annually payable by Government or such authority or company

to the union board shall not exceed the maximum of Rs. 84.

NOTE.—Railway companies are not liable to payment of the union rate until they are notified as liable under section 135, Indian Railways Act.

5. A person liable to pay the rate, but not living in the union, shall be assessed only on the land which he actually holds, or on the income which he may actually derive from property or business in the union.

6. The assessment list prepared as aforesaid shall be approved by the union board at a meeting and so much of it as appertains to each village in the union shall be published in a conspicuous place in that village at least two months before the commencement of the year.

7. The union board at a meeting shall hear and decide any objections to the assessment list made within three weeks after the publication of the list. A note shall be kept of such orders as are passed in the minute book of the board.

8. After the expiry of the period of three weeks mentioned in rule 7 the president of the union board shall send to the circle officer a duplicate copy of the assessment list together with a copy of the budget and a certificate stating the dates on and the places at which the assessment list was published.

9. Upon receipt of the assessment list, the circle officer shall see—

- (a) that the list has been signed by all the members and the publication has been certified ;
- (b) that the estimate of the union rate as provided in the budget has been correctly arrived at ; and
- (c) that in estimating the rate the balance in hand from the previous year has been allowed for.

If the circle officer thinks that the assessment made is inequitable, or is in excess of the legal requirements for the year, or will fall short of them, he will report to the District Magistrate, who may direct the union board to revise the assessment, and the board shall prepare a revised list accordingly.

10. The assessment list after being checked by the circle officer, or the revised list, if any, prepared under rule 9, shall be published by the union board in the manner laid down in rule 6, if possible before the first day of the year and if not as soon as possible thereafter.

11. If any person mentioned in the assessment list ceases at any time after the publication thereof under rule 10 to occupy any building in respect of the occupation of which he has been assessed, or if the means and property in respect of which he has been so assessed are reduced, the union board at a meeting may exempt him from assessment or revise the same; and such exemption or revision shall take effect from such date as the board may direct.

12. The union board at a meeting may, at any time after the publication of the assessment list under rule 10 and after giving previous notice of not less than a week, assess any person who was without authority omitted from the list, or whose liability to assessment has accrued thereafter, and may enhance any assessment which may appear to it to be inadequate and to have been so made owing to mistake or fraud. Any assessment or enhancement made under this rule shall take effect from the beginning of the quarter in which such assessment or enhancement is made or from the date when the liability to assessment accrued, whichever may be later.

13. The union board may, at any time, after giving previous notice of not less than a week, substitute for any name mentioned in the assessment list the name of

any new owner or occupier of a building, and may assess the rate on such person, and such person shall be liable to pay such assessment from the first day of the quarter in which such person's name was substituted in the assessment list, or from the date on which the change of ownership or occupation occurred, whichever may be later.

METHOD AND TIME OF PAYMENT OF UNION RATE.

14. The union rate shall be payable in equal quarterly instalments. The instalment of the rate on account of each quarter shall be due on the first day of such quarter:

Provided that in the case of an assessment under rule 12 or rule 13, the first instalment shall be due on the date on which such assessment is made known to the assessee.

15. The union board at a meeting may appoint one or more persons, who may be members of the board, to receive and collect the rate. The rate may also be paid at the office of the union board. The board shall declare by notification to be posted up in its office at what hours the office shall be open for the receipt of money.

16. Every person liable to pay any sum assessed upon him under these rules shall, within fifteen days from the date on which the said sum becomes due, pay or tender such instalment to the person or member appointed in that behalf under rule 15 or at the office of the union board.

17. For all sums paid on account of the rate a receipt shall be given in Form No. 2.

NOTE.—An estimate shall be made of the number of receipt forms likely to be required for a year's consumption and the complete year's supply shall bear consecutive printed numbers and shall be stitched in books of 100 each. The president shall stamp every receipt with the seal of the union board and keep the books in his personal custody. He shall keep an account of the books he issues and see that they are returned as soon as they are used up. The surplus forms shall be destroyed at the end of the year.

DISTRAINT AND SALE OF MOVABLE PROPERTY OF DEFAULTER.

18. Immediately after the 15th day from the date on which the instalment payable becomes due the union board shall prepare a list of the persons who may have failed to pay their respective instalment of the rate for such quarter, showing the amount due from each of such defaulters, and so much of it as appertains to each village shall be published in a conspicuous place in that village.

19. If any of the defaulters shall not, within 15 days of the publication of the list under rule 18, pay the sum due, or show to the union board sufficient cause for not paying the same, the president, or, if so directed by him, the vice-president, shall cause the chaukidar or any other person authorised in writing by the president or the vice-president to levy by the distraint and sale of a sufficient portion of the movable property of the defaulter, except plough-cattle and tools and implements of trade and agriculture, the amount of his arrear, together with a sum equal to half the amount of such arrear, by way of penalty:

Provided that when the movable property distrained is shown to the satisfaction of the union board to have been left in the building for repairs or safe custody in the ordinary course of business, it shall be released.

20. Distress shall be made by actual seizure of movable property and the officer charged with the execution of the distraint and sale shall be responsible for the due custody thereof.

21. Such officer shall give not less than ten days' previous notice of the sale and of the time and place thereof by beat of drum:

Provided that if the property distrained is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

22. If the sum due be not paid with the penalty referred to in rule 19 before the time fixed for the sale, the movable property seized shall be sold by auction at the time and place specified in the most public manner possible, and the proceeds shall be applied in the discharge of the sum due, including the penalty. Two members of the board shall be present at every such sale.

23. No property shall be sold to any member or servant of the union board.

24. The surplus sale proceeds shall be returned to the defaulter, or, in his absence, credited to the union fund to be paid thereafter on demand to any person who establishes his right to the satisfaction of the union board.

25. A record of all proceedings taken under rule 18, *et seq.*, shall be made and preserved in the minute book of the union board.

26. The union board shall cause a regular account to be kept of all distresses levied and sales made for the recovery of the union rate.

27. No instalment of the union rate shall be recovered by distress after the expiration of one year from the day on which the same shall have become due:—

FORM NO. 1.

Assessment List.

Serial No.	Name of owner or occupier of building.	Occupation (trade, business, etc.)	Estimated annual income within the union.	Description of property possessed.	Amount of tax payable quarterly	Grounds of exemption, if any.
1	2	3	4	5	6	7

FORM NO. 2.

RECEIPT FOR UNION RATE.

[Signature]

Name of Union.

Name of Union

Serial No. in assessment
listSerial No. in assessment
listName of owner or occu-
pier.

Name of owner or occupier

On account of for the year

On account of for the year

Total Rs. annas pies

Total Rs. annas pies

On account of penalties
under section 41On account of penalties
under section 41

Total Rs. annas pies

Total Rs. annas pies

*Dated the**Dated the**Collecting member or
officer.**Collecting member or
officer*

Rules for the guidance of Union Benches and Union Court.

Notification.—No. 4443J.—The 7th December 1914
In exercise of the power conferred by sub-section (2) section 101 of the Bengal Village Self-Government Act, 1909 (Bengal Act V of 1919), the Governor in Council is pleased to make the following rules for the guidance of Union Benches and Union Court :—

GENERAL.

1. The president of the union board, or, if he is not a member of the bench or court, a president elected by the members of the bench or court shall fix the time and place where the bench or court shall sit.

The bench or court shall sit at least on one fixed day in each week ; if the date so fixed falls on a Government holiday, it shall sit on the next open day.

Two members of the bench or court shall form a quorum.

2. Subject to the control of the subdivisional officer, the president of the bench or court may give leave of absence to members of the bench or court and the subdivisional officer may give leave of absence to the president. If the president is absent, the remaining members of the bench or court shall elect a president to act in his absence.

3. The bench or court shall finish, if possible, the hearing of the case or suit in one day. If for any reason the case or suit is adjourned, it shall on the next day of hearing be heard, if possible, by the same members of the bench or court who heard it in part. If any of such members are unable to sit, it shall be heard *de novo*, provided that if two members are present who have heard it in part, it shall not be necessary to try the case or suit *de novo*.

4. Each court or bench shall have a seal inscribed with its name and shall use the same on all processes, warrants and orders issued by it.

The language of the court or bench and of all records and registers shall be Bengali.

The union board shall depute one or, if necessary, more than one chaukidar to attend each sitting of the union bench and of the union court and carry out the orders of the bench or court. The clerk of the union board shall attend each sitting of the union bench or of the union court.

The court or bench shall maintain such establishment as the union board may allow.

5. The bench or court may at any stage of the case or suit hold local enquiry in respect of any matter in dispute between the parties.

6. The parties shall ordinarily bring their own witnesses. The bench or court may send for any witness, or may issue a summons, if necessary, for his appearance or for the production of any document required by any party. The summons shall be in the form given in the schedule.

7. (a) Any person requiring a copy of a record or part of a record shall apply to the court or bench. The clerk of the court or bench, if any, or the clerk of the union board shall fix the fee at the rate of 150 English or 300 vernacular words for three annas. On the payment of this fee the copy shall be prepared.

(b) Of the three annas two annas shall be paid to the copyist and one anna to the union fund.

(c) For a certified copy a fee to be paid in stamps under article 24 of Schedule of the Stamp Act must be paid.

ARTICLE 24 OF SCHEDULE I OF THE INDIAN STAMP
ACT (ACT II OF 1899).

DESCRIPTION OF INSTRUMENT.

PROPER
STAMP DUTY.

COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—

- | | |
|--|----------------|
| (i) If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee. | Eight annas. |
| (ii) In any other case | ... One rupee. |

(d) If a copy is required immediately, an additional fee of annas eight shall be paid. The additional fees shall be paid to the union fund.

8. (i) Every summons, warrant, or order issued by the bench or court and every recognisance bond taken by the bench shall be in writing, in the form given in the Schedule and shall be signed and sealed by the president of the bench or court or in his absence by a member of the bench.

(ii) Every summons requiring the attendance of any person before the bench or court, every warrant for the arrest of a person under section 72 (3) of the Bengal Village Self-Government Act of 1919, every order under section 99 of the Bengal Village Self-Government Act of 1919, and every notice issued by the bench or court shall be directed to the president of the union board within the limits of which union the person against whom the process is directed is living or, if he is resident in a municipal area, to the subdivisional officer.

(iii) The president of the union board shall make over such summons or notice to a chaukidar for service.

(iv) The president of the union board shall, in the case of a warrant, endorse the warrant with the name of a dafadar or chaukidar and the warrant shall then be served by such dafadar or chaukidar.

(v) On receipt of an order under section 99 of the Bengal Village Self-Government Act of 1919 for the realization of any sum, the president of the union board shall proceed to realize the said sum as if it were an arrear of rate imposed under section 37 of the Act.

(vi) All processes, notices and orders issued by the bench or court should be returned to the bench or court after service or execution and should be kept in a file.

9. All records and registers shall be preserved for three years.

BENCH.

1. The bench will take cognisance of offences on a petition made orally or in writing—

(a) at a sitting of the bench—

(b) to any member of the bench at a time other than when the bench is sitting.

2. When a petition is made orally to a member of the bench under rule 1(b), the member shall make a memorandum of the name and residence of the complainant and the accused and the nature of the charge. The member shall forward the petition if it is in writing, or his memorandum when the petition is made orally, to the president of the bench to be laid before the bench at its next sitting. The member shall give a receipt in the form prescribed in the Schedule and shall direct the petitioner to appear before the bench at its next sitting.

3. The bench shall examine on oath or solemn affirmation the person making a complaint under rule 1 (a) or 1(b) and after such examination shall deal with the case under section 68 or 70(1) of the Bengal Village Self-Government Act of 1919. If any person, having made a petition before a member of the bench under rule 1(b), fails to appear before the bench, the bench may dismiss the petition under section 69 of the above Act.

4. Necessary entries shall be made in the case register of all petitions made to member of the bench whether in court or otherwise.

5. If a case is transferred to the bench under the proviso of section 66 of the Bengal Village Self-Government Act, 1919, it shall be entered in the register and, if the accused is present, be taken up for trial or, if he is not present, the bench shall procure his attendance by summons or otherwise.

6. When the accused appears or is brought before the bench, the particulars of the offence of which he is accused shall be stated to him and he shall be asked if he has any cause to show why he should not be convicted.

7. If the accused admits that he has committed the offence of which he is accused and if he shows no sufficient cause why he should not be convicted, the bench shall convict him accordingly.

8. If the accused does not make such admission, the bench shall proceed to hear the complainant, if any, and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence. The president or with his permission another member of the bench may record a summary of the evidence.

9. (1) If the bench upon taking the evidence referred in rule 8 and examining the accused find the accused not guilty, they shall record an order of acquittal.

(2) If the bench find the accused guilty, they shall sentence the accused in accordance with section 72 of the Bengal Village Self-Government Act of 1919.

10. If a complainant, at any time before a final order is passed in any case, satisfies the bench that there are sufficient grounds for permitting him to withdraw his complaint, the bench may permit him to withdraw the same and shall thereupon acquit the accused.

11. Every order passed by the bench shall be recorded in the case register and shall be signed by each member of the bench engaged in hearing the case.

12. On the receipt of any fine, compensation, or penalty under a recognisance bond, the amount paid and the date of payment shall be entered in the fine register. At the close of each sitting the president shall send all fines realised to the president of the union board for credit to the union fund.

13. The following registers shall be maintained:—

(1) Case Register.

(2) Register of fines imposed, compensation awarded and penalty enforced.

(3) Register of applications for copies.

(4) A register of miscellaneous receipts and copying fees with counterfoils.

14. A quarterly return shall be made to the circle officer in the form prescribed.

15. (i) When it is proved to the satisfaction of the bench by which a bond under section 70(3) of the Bengal Village Self-Government Act of 1919 has been taken, that such bond has been forfeited, the bench may call upon the person bound by such bond to show cause why it should not be paid.

(ii) If sufficient cause is not shown, the bench may direct that the penalty be paid.

(iii) If the penalty is not paid, the bench may proceed to recover it under section 99 of the Bengal Village Self-Government Act, 1919.

(iv) The bench may in its discretion remit any portion of the penalty and enforce payment in part only.

SCHEDULE.

REGISTER OF CASES.

Left hand page.	Right hand page.
1. Serial number of the case.	(For Intermediate
2. The name and address of the complainant.	orders, synopsis
3. The name and address of the accused.	of the evidence
4. The substance of the charge.	and reasons for
5. Date of the commission of the offence.	decision if any.)
6. Date of the complaint.	
7. Date of the appearance of the accused.	
8. Remands with dates.	
9. Final order with date.	
10. Orders (with date) under section 72 (3).	

Signatures of the members of the Bench.

SUMMONS AND WARRANT REGISTER.

1. Serial number of the case in the Case Register.
2. Name of the person against whom issued.
3. To whom issued.
4. Date of issue.
5. Returnable date fixed by the bench.
6. Actual date of return.
7. Writ money if any.
8. Remarks.

REGISTER OF FINES, COMPENSATION AWARDED AND AMOUNTS DUE UNDER BOND.

1. Serial number.
2. Number of the case in the Case Register.
3. Amount of fine imposed, compensation awarded, or penalty exacted under recognisance bond.
4. Date of imposition.
5. Date of the issue of distress warrant, if any.
6. Amount and date of realization.
7. Date of credit to the union fund.
8. Receipt of the president of the union board.
9. Date of body warrant.
10. Date of execution of body warrant.
11. Remarks.

REGISTER OF MISCELLANEOUS RECEIPTS AND COPYING FEES WITH COUNTERFOILS.

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Serial number. 2. Name of the payer. 3. Amount received and on what account received (in words and figures). 4. Signature of the receiving officer. 5. Date of credit to the union fund. | <ol style="list-style-type: none"> 1. Serial number. 2. Name of the payer. 3. Amount received on what account received (in words and figures). 4. Signature of the receiving officer. |
|---|---|

V.—REGISTER OF APPLICATIONS FOR COPIES.

Serial No.	Name of applicant.	Date of application.	Nature of document of which copy is applied for, and No. and year of case in which filed.	WHETHER APPLICANT REQUIRES—		Amount to be paid.	Dated of payment.	Date on which copy was ready for delivery.	Date on which delivery was taken.	REMARKS.
				Certified copy.	Uncertified copy.					
1	2	3	4	5	6	7	8	9	10	11

NOTE 1.—The date to be entered in column 3 is the date of receipt of application.

NOTE 2.—In the column for remarks should be noted any copies which, though originally applied for and granted as “uncertified” are subsequently converted into “certified” copies.

VI.—PETITION RECEIPT.

Counterfoil.	Receipt.
No.	No.
Name of complainant.	Name of complainant and accused.
Date of appearance fixed.	Date fixed for appearance before Bench.
Signature.	Signature.
Date.	Date.

VII—SUMMONS TO A WITNESS.

TO

of

Whereas complaint has been made before me that
of
has (or is suspected to have) committed the
offences of (state the offence concisely with time and
place)

and it appears to me that you are likely to give material evidence for the prosecution :
defence.

You are hereby summoned to appear before this Bench on the day of at o'clock in the ^{fore}/_{after} noon to testify what you know concerning the matter of the said complaint, and not be depart thence without leave of the Bench ; and you are hereby warned that if you shall, without just excuse, neglect or refuse to appear on the said date, you will be liable to fine of twenty-five rupees.

Given under my hand and the seal of the Bench
this day of 19

Seal.

(Signature)

President of the Union Bench at

VIII.—SUMMONS TO AN ACCUSED PERSON.

To

of

Whereas your attendance is necessary to answer to a charge of (state shortly the offence charged), you are hereby required to appear in person (or by agent, as the case may be) before the Union Bench on the day of 19 . Herein fail not. Dated this day of 19 .

Seal.

(Signature)

President of the Union Bench at

IX.—BOND TO ATTEND BEFORE A UNION BENCH IN ANSWER TO A CHARGE.

I (name) of being charged with the offence of and having been called upon to enter into my own recognisance to appear when required before the Bench do hereby bind myself to appear on the day of next or on such day as I may hereafter be required to attend to answer further to the said charge, and in case of my making default herein, I bind myself to forfeit to His Majesty the King-Emperor of India, the sum of Rupees

Dated this day of 19

Seal.

(Signature)

President of the Union Bench at

X.—WARRANT OF ARREST ON FAILURE TO PAY A FINE IMPOSED BY A UNION BENCH.

To

The President of the Union Board.

Whereas of has been convicted under section of the Indian Penal Code Act No. of and has been sentenced to pay or in default to undergo simple imprisonment for days and whereas the said fine has not been paid or realized :

You are hereby directed to arrest the said and to produce him before me. Herein fail not.

Dated this day of 19

Seal.

(Signature)

President of the Union Bench at

XI.—WARRANT OF ARREST ON FAILURE TO PAY A SUM AWARDED AS COMPENSATION BY A UNION BENCH UNDER SECTION 72 (2) OF THE BENGAL VILLAGE SELF-GOVERNMENT ACT, 1919.

To

The President of the

Union Board.

Whereas of was directed to pay to of a sum of Rupees as compensation for bringing a frivolous or vexatious case or in default to suffer simple imprisonment for a period of days; and whereas the said sum has not been paid or realized:

You are hereby directed to arrest the said and to produce him before me. Herein fail not.

Dated this

day of

19

Seal.

(Signature)

President of the Union Bench at

XII.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT PASSED IN DEFAULT OF THE PAYMENT OF A FINE.

To

The Superintendent of the jail at

Whereas on the day of 19 (name of prisoner) was convicted before this Union Bench of the offence of (mention the offence or offences concisely) under section (or sections) of the Indian Penal Code Act of; and was sentenced to pay a fine of or in default to undergo ^{rigorous} simple imprisonment for days, and whereas the said fine has not been paid or realized.

This is to authorize and require you, the said Superintendent, to receive the said (name) into your custody, together with this warrant, and him safely to keep for the said period of days unless the said fine be sooner paid, and on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Bench,
this day of 192

Seal.

(Signature)

President of the Union Bench at

XIII.-WARRANT OF IMPRISONMENT ON FAILURE TO
PAY OR REALIZE AMENDS.

To

The Superintendent of the Jail at

Whereas (name and description) has brought against (name and description of the accused person) the complaint that (mention it concisely) and the same has been dismissed as frivolous (or vexatious) and the order of dismissal awards payment by the said (name of complainant) of the sum of rupees as amends; and whereas the said sum has not been paid by or recovered from the said (name of complainant) and an order has been made for his simple imprisonment in jail for the period of days in default of the payment or recovery of the said sum:

This is to authorize and require you, the said Superintendent, to receive the said (name) into

your custody; together with this warrant, and him safely to keep in the said jail for the said period of (term of imprisonment) , subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Bench
this day of 19 .

Seal.

(Signature

President of the Union Bench at

XIV.—ORDER TO LEVY A FINE
AN AMOUNT DUE AS COMPENSATION AS
AN AMOUNT DUE UNDER A BOND
AN ARREAR OF RATE IMPOSED UNDER SECTION 37
OF THE BENGAL VILLAGE SELF-GOVERNMENT ACT
OF 1919.

To

The President of the Union Board at

Whereas of was on the day of

19 convicted before the Union Bench at
 order by

of the offence of (mention the offence concisely) and sentenced to
pay a fine of Rupees to pay Rupees as compensation to
of under section 72 (2) of the Bengal Village Self-Govern-
ment Act, 1919 to pay Rupees under a bond.
and whereas the said (name) has not paid the
said sum or any part thereof:

This is to authorize and require you to realize the
said sum as an arrear of rate imposed under section 37

of the Bengal Village Self-Government Act, 1919, and on realization to return this warrant with your endorsement certifying that you have realized the said sum.

Given under my hand and the seal of the Bench,
this day of 19 .

Seal.

(Signature)

President of the Union Bench at

XV.—RETURN.

To be submitted every quarter.

Nam	uat	gth	complaints re- sulting from last quarter.	Number of cases resulting in--	Number of per- sons brought under trial.	Number of cases dispo- sed of during the quarter which were under trial for	cases per dec mon
Tot	imbe	by tl	endi				
tl							
N	r						
Nam	r						
qu	e						
N							
C							
Number	tal.						
One							
N							

UNION COURTS.

1. Any person wishing to bring a suit before a union court may appear before the court on a day fixed for its sitting and present a petition orally or in writing. He shall at the same time produce any document on which he relies that is in his custody.

2. The court shall then enter in the register of suits the name and address of the plaintiff or plaintiffs, the name and address of the defendant or defendants, the nature of the claim, the date and place where the cause of action arose and the relief claimed. The court shall make a note of any document produced in the column of remarks.

3. The court shall then, after such examination of the petitioner as it considers necessary, proceed either under section 78 or under section 80 of the Bengal Village Self-Government Act, 1919.

4. If any defendant does not reside within the jurisdiction of the court, the summons may be served by registered acknowledgment post, the postage for which shall be paid by the plaintiff or it may be sent for service to the president of the union board in which the defendant resides.

5. If the defendant appears and applies for time either to proceed under section 11 of the Bengal Village Self-Government Act, 1919, or to produce evidence, the court shall fix a date for the hearing, but unless the defendant declares his intention to move for a transfer under section 81, he shall be called on to answer the petition at once either orally or in writing.

6. When both sides are ready with their witnesses the court shall proceed to hear the case.

7. The petitioner shall have the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the petitioner is not entitled to any part of the relief which he seeks, in which case the defendant shall have the right to begin.

8. The party having the right to begin shall state his case and produce his evidence in support of the issue which he is bound to prove.

The other party shall then state his case and produce his evidence (if any) and may then address the court generally on the whole case.

The party beginning may then reply generally on the whole case.

9. The president or, with his permission, another member of the court may make a memorandum of the substance of the evidence in the register of suits.

10. The court may at any time permit the petitioner to withdraw the suit or to abandon a part of his claim with liberty to bring a fresh suit in respect of the part so abandoned on such terms as to compensation to the defendant for expense and trouble incurred as the court may think fit.

On abandonment of the whole or part of a claim the plaintiff shall pay the fee under section 90 of the Bengal Village Self-Government Act, 1919, in respect of the amount of the claim abandoned.

If a suit be adjusted wholly or in part by any lawful agreement or compromise, such agreement or compromise shall be recorded and the court shall pass a decree in accordance therewith.

11. Decrees or orders of the court shall be entered in the register of suits and signed by all members of the Court hearing the case.

12. All money payable under a decree shall be paid as follows, namely:—

- (a) into the court whose duty it is to execute the decree, or
- (b) out of court to the decree-holder, or
- (c) otherwise as the court which made the decree directs.

Where any payment is made under clause (a), notice in writing or otherwise of such payment shall be given to the decree-holder.

13. Where any money payable under any decree is paid out of court or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, the decree-holder shall certify such payment or adjustment to the court whose duty it is to execute the decree, and the court shall record the same accordingly after realizing the fees from him.

The judgment-debtor also may inform the court of such payment for adjustment within three months of the payment and apply to the court to issue a notice in writing or otherwise to the decree-holder to show cause on a day to be fixed by the court why such payment or adjustment should not be recorded as certified, and if after such notice the decree-holder fails to show cause why the payment or adjustment should not be recorded as certified, the court shall record the same accordingly after realizing the fees from the judgment-debtor.

A payment or adjustment which has not been certified or recorded as aforesaid shall not be recognized by any court executing the decree.

14. At any time within three years of the signing of the decree, the successful party may apply to the court for execution of the decree.

The court will then issue an order on the president of the union board who will proceed to realize the amount as if it were an arrear of rate imposed under section 37 of the Bengal Village Self-Government Act, 1919.

15. On realisation he shall report the fact to the Court which will note the same in its register and will hold in deposit the sum decreed to the party and will credit the sum realized as fees to the Union Fund.

16. After the expiry of one month from the date of a decree dismissing a suit or after the expiry of three months of any suit decreed, if the decreeholder takes no steps to recover his decree, the Courts shall proceed under section 99 of the Bengal Village Self-Government Act, 1919, to realize any fees due to it.

17. The certificate to be granted under section 91 of the Bengal Village Self-Government Act of 1919 shall be in the form given in the schedule.

18. On execution of such transferred decree, the Munsiff shall certify execution to the Court.

19. When the suit is restored under section 79 or re-opened under section 82 of the Bengal Village Self-Government Act, 1919, a note shall be made in the Register of Suits.

20. When a retrial is ordered under section 88 of the Bengal Village Self-Government Act, 1919, the suit shall be entered afresh in the Register of Suits.

21. If any Union Court ceases to have jurisdiction in any area, all suits arising from such area and pending in such Court shall be heard and determined, and all decrees passed by such Court in cases arising from such area and pending in such Court shall be heard and determined, and all decrees passed by such Court in cases arising from such area and remaining unexecuted shall be executed by the civil court which, if the suit were about to be instituted, would have jurisdiction to try it.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such civil court.

22. The defendant may set off any amount legally due to him by the plaintiff for which he could bring a

suit in a Union Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

23. The following register shall be kept :—

- (1) Register of Suits.
- (2) Register of Fees.
- (3) Counterfoil Receipt book.

SCHEDULE.

REGISTER OF SUITS.

Left hand page.	Right hand page.
1. Date of presentation of petition.	Intermediate orders, synopsis of evidence
2. Number of suit.	and reasons for decision if any.
3. Name and address of plaintiff.	
4. Name and address of defendant.	
5. Particulars of claim.	
6. Date when and place where the cause of action arose.	
7. Whether decided <i>ex-parte</i> or after contest, or on compromise or on rehearing.	
8. Decree or order with date.	
9. Date and particulars of execution.	
10. Remarks.	

ON COURT OF.....
II: Register of Fees.
For the Year.....

Serial No.	Number in Register of suits.	Date of decree.	By whom payable.	Amounts,	Date of requisition to the president of the union board.	Date of realization.	Date of credit to union fund.	Receipt of president of union board.
1	2	3	4	5	6	7	8	9

Serial No.	Name of applicant.	Date of application.	Nature of document of which copy is applied for, and No. and year of case in which filed.	WHETHER APPLICANT REQUIRES	Certified copy.	Uncertified copy.	Amount to be paid.	Date of payment.	Date on which copy was ready for delivery.	Date on which delivery was taken.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12

NOTE.—In the column for original copies, should be noted a "copy" which, though originally applied for, has been converted into "certified" copies.

VI.—Counterfoil Receipt Register.**Union Court,****For the year**

THIS TITLE WITH THE NAME OF THE UNION COURT
SHOULD BE PRINTED ON THE OUTSIDE OF THE
BOOK OF COUNTERFOILS.

Union Court Receipt.

No.	No.	, dated
Date	Received from	
Name of Payer	the sum of	
On what account	Rs.	
Amount		(Signed)
President of		President of
Union Court.		Union Court

V.—SUMMONS TO WITNESS.

In the Union Court.
Suit No. of (year)
Petitioner

versus

Defendant.

To (name, description and address)

You are hereby summoned to appear in person (or
by agent in case of document) on day of
at in the ^{forenoon}/_{afternoon} to give evidence on behalf of
the plaintiff [or the defendant] in the above-mentioned
suit and to produce (here describe the document) and
you are not to depart thence until you have been
examined (or have produced the document) or unless
you have obtained the leave of the Court; and you are
hereby warned that if you shall without just excuse,
neglect or refuse to appear on the said date you will be
liable to a fine of twenty-five rupees under section 96
(4) of the Village Self-Government Act of 1919.

Given under my hand and the seal of the Court
this day

Signature

President of the Union Court.

Seal

If the document is not wanted the necessary words
may be scored through.

VI.—SUMMONS TO A DEFENDANT.

In the Union Court.

Suit No. of

Petitioner

versus

Defendant.

To (name, description and address)

Whereas (name, description and address of the
plaintiff) has instituted a suit in this Court against you
(here state the particulars of the claim in the Register);
you are hereby summoned to appear in this Court in
person or by agent on the day of to
answer the above-named plaintiff; you are hereby
required to take notice that, in default of your
appearance on the day before mentioned, the suit will be
heard and determined in your absence.

Given under my hand and the seal of this Court
this day

Signature

President of the Union Court.

Seal.

VII.—WARRANT FOR REALIZATION OF DECREES
AND FEES.

To the President of the Union Board

at

Whereas was ordered by the decree of this
Court passed on the day of in suit
No. of (year), to pay to the plaintiff the sum of
Rs. and to pay fees amounting to noted
in the margin, and whereas the
said sum of Rs. has not
been paid ;

Decree ...
Principal ...
Interest ...
Fees under section
90 of the Vil-
lage Self-Go-
vernment Act
of 1919.

This is to authorize and require
you to realize the said sum as an
arrear of rate imposed under section
37 of the Bengal Village Self
Government Act of 1919, and on
realization to return this warrant
with your endorsement certifying
that you have realized the said sum.

Given under my hand and seal of this Court
this day of 19

Signature

President of the Union Court.

at

RULES UNDER THE V. S. G. ACT.

III.—CERTIFICATE OF NON-SATISFACTION OF D.

**In the
Suit No.**

Union Court.
of (year)

Petitioner

versus

Defendant.

<p>Certified that no (or partial, as the case may be, and if partial, state to what extent) Amount due to..... satisfaction of the decree of this Amount due for fees..... Court in Suit No. of Under section 90 of can be effected by this Court. the village Self- Given under my hand and seal of Government Act this Court, this day of 1919. of</p>	
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Signature ()

President of the Union Court.
at

IX.—

UNION COURT.

RESULT OF MISCELLANEOUS CASES DURING THE QUARTER ENDING

	Applications remaining from preceding quarter.	Applications made during the quarter.	Total of columns 2 and 3.	Applications rejected or dismissed.	Applications successful.	Pending at end of quarter.
1	2	3	4	5	6	7
Under section 79						
Under section 82						
Other applications						

**X.—
UNION COURT.
RESULT OF CIVIL SUITS UNDER TRIAL DURING THE QUARTER ENDING**

Class of Courts.	NUMBER OF SUITS BEFORE THE COURTS.						NUMBER OF SUITS DISPOSED OF											REMARKS.			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	Pending from last quarter.	Instituted* in	Remanded under section 88.	Revised under section 79 or 82.	Total for disposal.	Plaint rejected or returned.	Dismissed for default or want of prosecution.	Withdrawn with leave.	Compromised.	Decreed on confession.	Decree <i>ex parte</i> .	Dismissed <i>ex parte</i> .	For plaintiff.	For defendant.	Judgement for plaintiff in whole or part.	Judgement for defendant.	Total disposed of.	Pending at close of quarter.	Number of cases pending more than three months at the close of the quarter.		



